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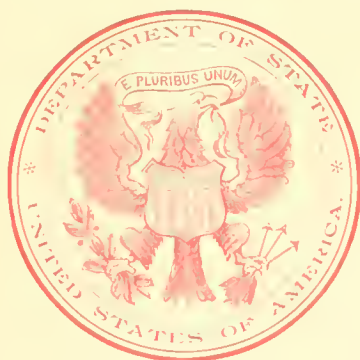
DOCUMENTARY HISTORY  
OF THE  
**CONSTITUTION**

OF THE  
UNITED STATES OF AMERICA

1786-1870

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VOLUME III  
WITH A SPECIAL INDEX



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## INTRODUCTORY NOTE.

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The purpose indicated in the introductory note to Volume I of this work has been strictly adhered to in succeeding volumes, and notes by the Bureau are accordingly confined to such comment as the condition and circumstances of the original manuscript require.

One of the two copies of Madison's introduction to the Debates, deposited in the Department of State by Mrs. Madison, was withdrawn by the Library Committee of Congress under the act of January 28, 1839, for official publication. The remaining copy, preserved with the original manuscript, is given as it appears, and is but a fragment.\* A detached paragraph, out of place in the manuscript, is printed as a footnote at page 35 of the text.

Indented notes and footnotes, which appear respectively as in the original, are in Madison's handwriting, while bracketed marginal notes are editorial, except those reading at right angles with the text, which are original.

The text of Madison's writings is leaded; that of papers by other persons is solid. All the notes and papers are printed where they appear in the original manuscript, except the report of the committee on style and arrangement, at page 720.

Madison did not observe a uniform orthography in the

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\* See Appendix, page 782.

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names of delegates to the convention. The names are spelled in the index to this volume according to the signatures of delegates who signed the Constitution, and, where delegates did not sign, according to the spelling given in the credentials by virtue of which they acted, as printed in Volume I.

ANDREW HUSSEY ALLEN,

*Chief of Bureau.*

BUREAU OF ROLLS AND LIBRARY,

*Department of State, December, 1899.*



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Articles twenty-first and twenty-second adopted—Assent of the Continental Congress to Constitution not required—That an address to the people accompany the plan referred.	
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equal representation in the Senate without its consent But not that a two-thirds vote be required to pass a navigation law before 1808-- Nor that amendments be submitted to a new Federal convention—Con- stitution as amended agreed to and ordered to be engrossed.	PAGE.
MONDAY, SEPTEMBER 17. ....	761
Amendment that ' the number of Representatives shall not exceed one for every 30,000 inhabitants ' carried.	
Agreed that the Constitution be signed as "done by the unanimous con- sent of the States present".	
Agreed that the journals and papers of the convention be deposited with its President, subject to the order of the Congress if the government be ever formed.	
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# Documentary History of the Constitution of the United States of America.

1786-1870.

[“ Preface to Debates in the convention of 1787 ” stricken out]

A [“ jour ” stricken out] sketch never finished nor applied.  
As the weakness and wants of man <sup>[“added to natural propensity” stricken out]</sup> naturally lead to association of individuals, [“and ” <sup>under</sup> stricken out] a common authority, whereby each may [“ be <sup>have</sup> under ” stricken out] the protection of the whole against danger from without, and enjoy in safety within, the advantages of social intercourse, and an [“ mutual ” stricken out] <sup>the</sup> exchange of necessities & comforts <sup>of life</sup> : in like manner feeble communities, independent of each other, have resorted to a Union, less intimate, but with [“ instituted ” <sup>common</sup> stricken out] Councils, for the common safety ag<sup>st</sup> powerful neighbors, and the <sup>for</sup> preservation of justice and peace among themselves. Ancient history furnishes examples of these <sup>con</sup> federal <sup>confederacies</sup> associations, tho’ with a very imperfect account, of their structure, and of the attributes and functions of the presiding Authority. There are examples of modern date also, some of them still existing, the modifications and [“ careers ” <sup>transactions operations</sup> stricken out] of which are sufficiently known.

It remained for the British Colonies, now United States, of North America, to add to those examples, one of a more

interesting character than any of them: and leading to  
 another <sup>which led to a system</sup> [“of which no example” <sup>without a | a precedent</sup> stricken out] <sup>a system founded</sup> ancient or  
 modern <sup>enable</sup> has existed on popular rights, and so combining a  
 federal form with the forms of individual Republics, as may  
 [“render” <sup>to supply the defects</sup> stricken out] each [“a counteract on the” stricken out]  
 of the other and obtain the advantages of both—

Whilst the Colonies enjoyed the protection of the parent  
 country as it was called, against foreign danger; and were  
 secured by its superintending controul, against conflicts  
 among themselves, they continued independent of each other,  
 [“but” stricken out] under a common, tho’ limited depend-  
 ence, on the parental Authority. [“As soon” <sup>When</sup> however [“as”  
 stricken out] the growth of the offspring in strength and in  
 wealth, awakened the jealousy and tempted the avidity of the  
 parent, into schemes of usurpation & extortion, <sup>exaction</sup> the obliga-  
 tion was felt by the former of uniting their counsels, and  
 efforts to avert the impending calamity.

As early as the year 1754, indications <sup>having [“had” stricken out] been</sup> [“were” stricken out]  
 given of a [“plan” stricken out] design in the Brit [“tish  
 Legislature to” stricken out] tish Government to levy  
 [“taxes” <sup>contributions</sup> stricken out] on the Colonies, without their con-  
 sent; [“in consequence of which” stricken out] a meeting  
 of Colonial deputies took place at Albany, [“in that year,”  
<sup>[“sanctioned by that Govt” stricken out]</sup> stricken out] which attempted [“in vain” stricken out] to  
 introduce a compromising substitute, [“which” <sup>that</sup> stricken out]  
 might at once satisfy the British <sup>requisitions</sup> [“wants,” stricken out]  
 and save their own rights from violation. The attempt had  
 no other effect, than <sup>by bringing these rights</sup> [“to bring these” stricken out] into a  
 more conspicuous [“and unanswerable” <sup>[“demonstrable” stricken out]</sup> stricken out] view,\*  
 [“without to confirm” <sup>to invigorate</sup> stricken out] the attachment to them  
 on one side; and [“to delay the exertion of” stricken out]

haughty ["proud" stricken out] &  
to nourish the encroaching spirit on the other. ["see the  
masterly letter of Dr Franklin to Governour Shirly in 1754,  
at that early day the argumentative vindication of America against  
in which the claim of the British parliament is afterwards  
expanded into volumes, is brought seen within the compass  
of a nut shell <sup>few pages</sup> short letter which is fated with the greatest  
possible is triumphantly repelled, by reasoning, repelled with  
the greatest possible force, within the smallest possible compass. The letter short as it is comprises the germ, of which  
all the succeeding arguments, are but a <sup>arguments of succeeding patriots are but</sup> development" <sup>^</sup> stricken out]

In 1774. The progress made by G. B. in the open asser-  
tion of her ["usurping" stricken out] <sup>the appended ["manifest  
her manifest indicated" stricken out]</sup> pretensions, and in  
["preparations for asserting" stricken out] them <sup>purpose of otherwise maintaining</sup> ["by force  
<sup>than</sup> of arms as well as" stricken out] by Legislative ["enact-  
<sup>stricken out]</sup> <sup>and declarations</sup> ments" stricken out] had been such that the Colonies did not  
hesitate to assemble, by their deputies, in a <sup>formal</sup> Congress, ["repre-  
<sup>authorized to oppose to</sup> senting the determination to meet" stricken out] the British  
<sup>innovations</sup> ["proceedings" stricken out]  
["measures on the modes best adapted to with such as  
<sup>whatever measures might be</sup> ought" stricken out] found best adapted to the occasion;  
without <sup>however</sup> <sup>^</sup> losing sight ["of the hope" stricken out] of an  
eventual reconciliation. ["Their appeals to the B" stricken  
out]

The <sup>dissuasive</sup> experimental measures of that Congress, being without  
effect, another Congress <sup>was held</sup> met in 1775, whose <sup>pacific</sup> ["efforts" stricken  
out] efforts to bring about <sup>["relinquishment" stricken out]</sup> ["adju of the of" stricken out]  
a change in the views of the other party, ["and a warlike"  
stricken out] being equally unavailing, and actual hostilities  
<sup>at length</sup> having put an end to all hope of reconciliation; <sup>The Congress</sup> ["the Con-  
gress" stricken out] finding moreover that the <sup>began to call</sup> ["ir con"  
stricken out] popular voice ["was calling" stricken out] for

an entire & <sup>political</sup> perpetual dissolution of the ties which had connected <sup>them</sup> with G. B., [<sup>1776</sup>“The Congress” stricken out] proceeded on the memorable 4<sup>th</sup> of July, to declare the 13 Colonies, [<sup>“free &”</sup> stricken out] independent States

During the discussions of this solemn Act, a <sup>[“in Congress” stricken out]</sup> Committee consisting of a Member from [<sup>each colony had been appointed</sup>“Colony,” stricken out] to prepare & digest a form of Confederation, for the future management of the common interests, which had <sup>[“heretofore” stricken out]</sup> hitherto been left to the discretion of Congress, guided by the exigences of the contest, and by the known intentions or occasional instructions of the Colonial Legislatures.

It appears that as early as the 21<sup>st</sup> of July 1775, <sup>A plan entitled</sup> “Articles of Confederation & perpetual Union of the Colonies” had been sketched by Doc<sup>r</sup> Franklin, The plan <sup>being on that day</sup> [<sup>not</sup>“tho not copied” stricken out] submitted by him to Congress; and tho’ <sup>not</sup> copied into their Journals remaining on their files in his handwriting. But notwithstanding the term “perpetual” observed in the title, the articles provided expressly for the event of a return of the Colonies to [<sup>“th”</sup> stricken out] a connection with G. Britain.

This sketch became a basis for the plan reported by the Com<sup>e</sup> on the 12 of July, <sup>[“&” stricken out] now also</sup> <sup>^</sup>remaining on the files of Congress, in the handwriting of M<sup>r</sup> Dickinson. The plan, tho’ dated after the Declaration of Independence, was probably drawn up before that event; since the [<sup>“States,”</sup> stricken out] name of Colonies, [<sup>“is”</sup> stricken out] and not States is used throughout the draught. The plan reported, was debated and amended from <sup>to time</sup> time till the 17<sup>th</sup> of November 1777, when it was agreed to by Congress, and proposed to the Legislatures of the States, with an explanatory and recommendatory letter.

The ratifications of these [<sup>duly authorized</sup> "took" stricken out] at successive dates; [<sup>but</sup> "and" stricken out] were not compleated till March 1, 1781. when Maryland who had made it a preliminary that the [<sup>vacant lands acquired</sup> "lands gained from" stricken out] from the British Crown should be a Common fund, yielded to the [<sup>persuasion that a</sup> "apprehension that" stricken out] final & formal establishment of the federal Union & Gov<sup>t</sup> would make a favorable impression not only on <sup>other</sup> foreign nations, but on G. B. herself.

The great difficulty <sup>experienced</sup> in so framing the fed<sup>l</sup> system as to obtain the unanimity required for its due sanction, may be inferred from the long interval, and recurring discussions, between the commencement and completion of the work; from the changes made in <sup>during</sup> its progress; from the language of Cong<sup>s</sup> when proposing it to the States, w<sup>ch</sup> dwelt on the impracticability of devising a system acceptable to all of them; from the reluctant assent given by some; and the various alterations [<sup>"see Jefferson's manuscript debates on the rules of voting and of taxing" stricken out</sup> "of it" stricken out] proposed by others; and by a tardiness in others again which produced a special address to them from Cong<sup>s</sup> enforcing the duty of sacrificing local considerations and [<sup>favorite</sup> "particular" stricken out] opinions to the public safety, and the necessary harmony; nor was the assent of some of the States finally yielded without strong protests against particular articles, and a reliance on future amendments removing their objections.

It is to be recollected, no doubt, that these delays might be occasioned in some degree, by an occupation of the public Councils both general & local, with the deliberations and measures, essential to a Revolutionary struggle; But there

must have <sup>been</sup> a balance for these causes, in the obvious motives to hasten the establishment of a regular and <sup>efficient</sup> ["obligatory" stricken out] Gov<sup>t</sup>; and in the tendency of the crisis to <sup>which might be inflexible</sup> repress opinions and pretensions, that would not be abandoned in another state of things.

The principal difficulties which embarrassed the progress, and retarded the completion of the plan of Confederation, may be traced to 1. the natural reluctance of the parties to a <sup>repugnance</sup> relinquishment of power: 2 a natural jealousy of its abuse <sup>\*[“see Hist. of Confed<sup>n</sup> in Secret Journal of Cong<sup>s</sup>. + Id.” stricken out]</sup> in other hands than their own: 3 the rule of suffrage among parties unequal in size, but equal in sovereignty. 4. The ratio of contributions in money and in troops, among parties, whose inequality in size did not correspond with that of their wealth, or of their military or free population. 5. The selection and definition of the <sup>the</sup> powers, at once necessary to <sup>the</sup> federal head. and safe to the several members.

To these sources of difficulty, incident to <sup>the formation of</sup> all such confederacies, were <sup>added</sup> two others one of a temporary, the other of a permanent nature. The first was the Case of the Crown lands, so called because they had been held by the British Crown, and being <sup>to individuals [“were” stricken out] when.</sup> ungranted [“prior at the dates at the” stricken out] its authority ceased, were considered by the States within whose charters or asserted limits they lay, as devolving on them; whilst [“the” stricken out] it was contended by the others, that being wrested from the <sup>dethroned</sup> [“Crown by” stricken out] authority by <sup>the equal exertion</sup> [“common” stricken out] of all, they resulted of right and in equity to the benefit of all. The <sup>[“vacant territory” stricken out]</sup> lands being <sup>vast</sup> of [“great” stricken out] extent and of growing value, <sup>were</sup> was the occasion of much discussion & heart-burning; & [“was” stricken out] proved the most obstinate of



the impediments to ["the " stricken out] an earlier consum-  
<sup>ratification</sup> mation of the plan of federal Gov<sup>t</sup>. The State of Maryland  
 the last that acceded to it held out as already noticed till  
 March 1. 1781. and then yielded only <sup>to</sup> the hope that by giving  
<sup>Stable &</sup> a authoritative character to the Confederation, a successful  
 termination of the contest might be accelerated. The  
 ["<sup>dispute</sup> controversy " stricken out] was happily compromised by  
 successive surrenders of portions of the ["la " stricken out]  
 territory by the States having exclusive claims to it, and  
 acceptances of them by Congress.

The other source of dissatisfaction was the peculiar situa-  
 tion of some of the States, which having no convenient ports  
 for foreign commerce, were subject to be taxed by their  
 neighbors, thro whose ports, ["they were " stricken out]  
 their commerce was carried on. New Jersey, placed between  
 Phil<sup>a</sup>. & N. York, was likened to a Cask tapped at boths ends:  
 and N. Carolina to a patient bleeding at both Arms. <sup>between Virga. & S. Carolina</sup>  
 The Articles of Confederation provided no relief for the complaint:  
 ["and " stricken out] which produced a strong protest on the  
 part of N. Jersey; and never ceased to be a ["topic " stricken  
 out] source of dissatisfaction & discord, until ["1 " stricken  
 out] the new Constitution, superseded the old\*

Monday May 14<sup>th</sup> <sup>1787</sup> was the day fixed for the meeting of the  
 deputies in Convention for revising the federal ["Constitu-  
<sup>system of Government.</sup> tion." stricken out] On that day a small number only had  
 assembled. Seven States were not convened till,

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\* See Appendix, page 6a.

Friday 25 of May,

when the following members appeared to wit: see Note A.

[The words from, "viz, From Massachusetts", to, "Georgia, William Few," inclusive, are written on a slip of paper pasted on the original sheet, and covering the words immediately preceding in small type.]

viz, From Massachusetts Rufus King. N. York Robert Yates, Alex<sup>r</sup> Hamilton. N. Jersey, David Brearley, William Churchill Houston, William Patterson. Pennsylvania, Robert Morris, Thomas Fitzsimmons, James Wilson, Gouverneur Morris. Delaware, George Read, Richard Basset, Jacob Broom ["e" stricken out]. Virginia. George Washington, Edmund Randolph, John Blair, James Madison, George Mason, George Wythe, James M<sup>c</sup>Clurg. N. Carolina, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, Hugh Williamson. S. Carolina, John Rutledge, Charles Cotesworth Pinkney, Charles Pinkney, Pierce Butler Georgia, William Few.

M<sup>r</sup> Robert Morris informed the members assembled that by the instruction & in behalf, of the deputation of Pen<sup>a</sup> he proposed ["the" stricken out] George Washington Esq<sup>r</sup> ["should" stricken out] late Commander in chief ["should" stricken out] for president of the Convention. M<sup>r</sup> J<sup>n</sup><sup>o</sup> Rutledge seconded the motion; expressing his confidence that the choice would be unanimous, and observing that the presence of Gen<sup>l</sup> Washington forbade any observations on the occasion which might otherwise ["have" stricken out] be ["en" stricken out] proper.

["The" stricken out] General <sup>Washington</sup> was accordingly unanimously elected by ballot, and conducted to the chair by M<sup>r</sup> R. Morris and M<sup>r</sup> Rutledge; from which ["he thanked in" <sup>in a</sup> stricken out] very emphatic ["al" stricken out] <sup>he thanked</sup> manner the Convention for the honor they had conferred on him, reminded them of the novelty of the <sup>scene</sup> scene of business in which he was to act, lamented his want of <sup>better qualifications,</sup> ["the requisites for it," stricken



out] and claimed the indulgence of the House towards the involuntary errors which his inexperience might occasion.

+ [The nomination came with particular grace from Penna, as Doc<sup>r</sup> Franklin alone could have been thought of [<sup>for</sup> "stricken out] as a competitor. President [illegible words] of obtaining the [illegible word] of Gen<sup>l</sup> Washington." stricken out] The Doc<sup>r</sup> was himself to have made the nomination [<sup>of General Washington, but the state</sup> "of the Gen<sup>l</sup> but the season of of the weather and [<sup>the state</sup> "stricken out] of his health confined him to his house.] the rain did not permit him to venture to the Convention chamber." stricken out]

Mr Wilson moved that a Secretary [<sup>"should"</sup> stricken out] be appointed, and nominated Mr Temple Franklin.

Col Hamilton nominated Major Jackson.

On the ballot Maj<sup>r</sup> Jackson had 5 votes & Mr Franklin 2 votes.

On reading the Credentials of the deputies it was noticed that those from Delaware were prohibited from changing the Article in the Confederation establishing an equality of votes among the States. The appointment of a Committee, consisting of Mess<sup>rs</sup> Wythe, Hamilton & C. Pinkney, on the motion of Mr<sup>c</sup> Pinkney, to prepare <sup>standing & orders</sup> rules was the only remaining step [<sup>taken on</sup> "of" stricken out] this day

### Monday May 28.—

<sup>h</sup> From Mass<sup>ts</sup>, Nat: Goram & Caleb Strong [<sup>"took their seats"</sup> stricken out]. From Conneticut Oliver Elseworth. From Delaware Gunning Bedford. From Maryland James McHenry, From Penn<sup>a</sup>, B. Franklin, George Clymer, Th<sup>s</sup>. Mifflin & Jared Ingersol took their seats

Mr. Wythe from The Committee for preparing rules made <sup>a</sup> report which employed the deliberations of this day. [<sup>"Mr Wythe delivered in the Report."</sup> stricken out] [Illegible word, "members reported," illegible word stricken out]

Mr King objected to one of the rules in the Report authorising any member to call for the yeas & nays and have them entered on the minutes. He urged that ["it was unnecessary." stricken out] as the acts of the Convention were not to bind the Constituents [<sup>it was unnecessary to</sup> "to" stricken out] exhibit this evidence of the votes; and improper as changes of opinion would be frequent in the course of the business & <sup>would</sup> fill the minutes with contradictions.

Col. <sup>Mason</sup> seconded the objection; adding <sup>that</sup> such a record of the opinions of members would be <sup>an</sup> obstacle to a change of them on conviction; and in case of its being hereafter promulgated must furnish ["a" stricken out] handles to the adversaries of the Result of the Meeting.

The proposed rule was rejected nem. contradicente.

The standing rules\* agreed to were as follow: [see the Journal] ["\*" stricken out] & copy here the printed rules

["The Rule restraining members from communicating the proceedings of the Convention &c. was [illegible word stricken out] agreed to nem. con. for reasons similar to those above mentioned.

"One Another of the Rules being disagreed to, the sett was agreed to understand as follows. See note B." stricken out.]

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\*Previous to the arrival of a majority of the States, the rule by which they ought to vote, <sup>in the Convention</sup> had been made a subject of conversation among the members present. It was pressed by Gouverneur Morris ["with" stricken out] and favored by Robert Morris and others from Pennsylvania, that the large States should unite in firmly refusing to the small States an equal vote, as unreasonable, and as enabling the small States to negative <sup>every</sup> good system of Government, which must in the nature of things, be founded on a violation of that equality. The members from Virginia, conceiving that such an attempt might ["produce fatal con" stricken out] beget fatal alterations between the large & small States, and that it would be easier to prevail on the latter, ["to" stricken out] in the course of the deliberations, to give up their equality for the sake of on taking the field of discussion, to disarm themselves of the right an effective Government, than, [illegible words; "of the right on taking the field of discussion" stricken out] & thereby throw themselves on the mercy of the large States, discountenanced & stifled the project.

[viz, A House to do business shall consist of the Deputies of not less than seven States; and all questions shall be decided by the greater number of these which shall be fully represented: but a less number than seven may adjourn from day to day.

Immediately after the President shall have taken the chair, and the members their seats, the minutes of the preceding day shall be read by the Secretary.

Every member, rising to speak, shall address the President; and whilst he shall be speaking, none shall pass between them, or hold discourse with another, or read a book, pamphlet or paper, printed or manuscript—and of two members rising at the same time, the President shall name him who shall be first heard.

A member shall not speak oftener than twice, without special leave, upon the same question; and not the second time, before every other, who had been silent, shall have been heard, if he choose to speak upon the subject.

A motion made and seconded, shall be repeated, and if written, as it shall be when any member shall so require, read aloud by the Secretary, before it shall be debated; and may be withdrawn at any time, before the vote upon it shall have been declared.

Orders of the day shall be read next after the minutes, and either discussed or postponed, before any other business shall be introduced.

When a debate shall arise upon a question, no motion, other than to amend the question, to commit it, or to postpone the debate shall be received.]

[“[A question which is complicated, shall, at the request of any member, be divided, and put separately on the propositions. of which it is compounded.

[The words beginning, “*viz.* A House,” &c., and ending with, “the debate shall be received]”, were written upon a slip of paper pasted over the words beginning, “The Rule restraining”, and ending with, “as follows. See note B.”, which had first been stricken out.

Upon this slip, so attached, is also written the note beginning, “\*Previous to the arrival of”, &c, and on the back of the slip are contained the remainder of the rules, beginning. “[a question”, &c., and ending: “until the President pass him.]”]

"The determination of a question, altho' fully debated, shall be postponed, if the deputies of any State desire it until the next day.

"A writing which contains any matter brought on to be considered, shall be read once throughout for information, then by paragraphs to be debated, and again, with the amendments if any, made on the second reading; and afterwards, the question shall be put on the whole, amended, or approved in its original form, as the case shall be.

"Committees shall be appointed by ballot; and the members who have the greatest number of ballots, altho' not a majority of the votes present, shall be the Committee—When two or more members have an equal number of votes, the member standing first on the list in the order of taking down the ballots, shall be preferred.

"A member may be called to order by any other member, as well as by the President; and may be allowed to explain his conduct or expressions supposed to be reprehensible.—and all questions of order shall be decided by the President without appeal or debate.

"Upon a question to adjourn for the day, which may be made at any time, if it be seconded, the question shall be put without a debate.

"When the House shall adjourn, every member shall stand in his place, until the President pass him.]" stricken out]

A letter from sundry persons of the State of Rho. Island addressed to the Honorable The Chairman of the General Convention was presented to the chair by M<sup>r</sup> Gov<sup>r</sup> Morris, and being read, was ordered to lie on the table for further consideration. [For the letter see Note ["C" stricken out] in the appendix.]

Mr Butler moved that the house provide ag<sup>st</sup> interruption of business by absence of members, and against [<sup>["unlicensed" stricken out]</sup> "licencious"<sup>licentious</sup> which stricken out], publications of their proceedings—to was added by—Mr Spaight—a motion to provide that on the one hand the House might not be precluded by a vote upon any question, from revising the subject matter of it, When they see cause, nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion.—Whereupon it was ordered that these motions be referred to the consideration of the Committee appointed to draw up the standing rules and that the Committee make report thereon.

Adj<sup>d</sup> till to morrow 10. OClock

Tuesday May 29.

[<sup>John</sup> "Mr" stricken out] Dickinson, and Elbridge Gerry, the former from Delaware, the latter from Mass<sup>ts</sup> took their seats, The following rules were added, on the report of Mr. Wythe, from the Committee [see the Journal] X["A few new rules added as appears by the minutes, as reported by Mr Wythe from the committee to whom was referred the motions of Mr Butler & Spaight" stricken out]

[["(Here insert the rules)" stricken out]

[["> For these additional rules see next page." stricken out]

Mr C. Pinkney moved that a Committee ["should" stricken out] be appointed to superintend the minutes.

Mr Gov<sup>r</sup> Morris objected to it. The entry of the proceedings of the Convention belonged to the Secretary as their impartial officer. A committee might have an interest & bias in moulding the entry according to their opinions and wishes

The motion was negatived, [<sup>by</sup> "by" stricken out] 5 noes [<sup>ag<sup>st</sup></sup> "ag<sup>st</sup>" stricken out] 4 ayes.

["On the question 5 noes were ag<sup>st</sup> 4 ayes so the motion was negatived." stricken out]

[here insert his speech. ["A"] stricken out] including his resolutions

Mr Randolph <sup>then</sup> opened the main business [<sup>out</sup> "in a long speech" stricken out] in which he pointed the various defects of the federal system,

the necessity of transforming it into a national efficient Government, and the extreme danger of delaying this great work, concluding with sundry propositions as the outlines of a proper form. [See the propositions at a subsequent page of this debate.]—accompan Resolves" stricken out]

["Mr Pin" stricken out]

It was then Resolved &c—&c—That the House will to-morrow resolve itself into a Committee of the whole House to consider of the State of the American Union.—and that the propositions moved by Mr Randolph be referred to the said Committee.

Mr Charles Pinkney laid before the house the draught of a federal Government <sup>which he had prepared</sup> to be agreed <sup>Mr. P. plan</sup> upon between the free and independent States of America.—ordered that the same be referred to the Committee of the whole appointed to consider the State of the American Union.

[Here "[insert the draught]" stricken out]

adjourned.

Additional rules. [see preceding page]

That no member be absent from the House, so as to interrupt the representation of the State, without leave.

That Committees do not sit whilst the House shall be or ought to be, sitting.

That no copy be taken of any entry on the journal during the sitting of the House without leave of the House.

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published or communicated without leave.

That a motion to reconsider a matter which had been determined by a majority, may be made, with leave unani-  
mously given, on the same day on which the vote passed, but otherwise not without one day's previous notice: in which



last case, if the House agree to the reconsideration, some future day shall be assigned for the purpose.

(Mr. R. Speech A. to be inserted Tuesday May 29)

He expressed his regret, that it should fall to him ["lot" stricken out], rather than those, who were of longer standing in life and political experience, to open the great subject of their mission. But, as the convention had originated from Virginia, and his colleagues ["had" stricken out] supposed, ["it to be" stricken out] that some proposition was expected from them, they had imposed this task on him.

He then commented on the difficulty of the crisis, and the necessity of preventing the fulfilment of the prophecies of the <sup>American</sup> downfall. ["of the Americans" stricken out]

He observed that in revising the federal system we ought to inquire 1. into the properties, which such a government ought to possess, 2. the defects of the confederation, 3. the danger of our situation & 4. the remedy.

1. The character of such a governme[mutilated] ought to secure 1. against foreign invasion: 2. against members of the Union, or seditions in particular states: 3. to p [mutilated] <sup>to the several States</sup> cure various blessings, of which an isolated situation was i[mutilated] capable: 4. to be able to defend itself against incroachment: & 5. to be paramount to the state constitutions.

2. In speaking of the defects of the confederation he pro-fessed a high respect for its authors, and considered, <sup>them</sup> as having done all that patriots could do, in the <sup>then</sup> infancy of ["political" stricken out] science, ["proper for the formation" stricken out] <sup>&</sup> of constitutions, ["and" stricken out] of confederacies,—when the inefficiency of requisitions was unknown—no commercial discord had arisen among any states—no rebellion had appeared as in Mass<sup>ts</sup>—foreign debts had not become urgent—the havoc of paper money had not been foreseen—["nor in short any of the nothing better could be ob—" stricken out]—treaties had not been violated—and perhaps nothing better could be obtained from the jealousy of the states with regard to their sovereignty.

He then proceeded to enumerate the defects: 1. that the confederation produced no security agai[mutilated] <sup>foreign</sup> invasion; congress not being permitted to prevent a war ["by

pre[mutilated] breaches of treaties or of the law of nations" stricken out] nor to support it by th[mutilated] own authority—Of this he cited many examples; most of whi[mutilated] tended to shew, that they could not cause infractions of treaties or of the law of nations,<sup>to be punished:</sup> that particular states might by their conduct provoke war without controul;<sup>that</sup> and neither militia nor draughts being fit for defense on such occasions, enlistments only could be successful, and these could not be executed without money.

2. that [<sup>the federal government</sup> "congress" stricken out] could not check the quarrels between states, not having constitutional power Nor means to interpose according to the exigency:

3. that there were many advantages, which the U. S. might acquire, which were not attainable [<sup>["without" stricken out]</sup> "under union" stricken out]<sup>under the confederation</sup>—such as a productive impost—counteraction of the commercial regulations of other nations—pushing of commerce ad libitum—&c &c.

4. that the fœderal government could not defend itself against the incroachments from the states:

5. that it was not even paramount to the state constitutions, [<sup>ratified</sup> "assented to" stricken out], as it was in may of the states.

3. He next reviewed the danger of our situation appealed to the sense of the best friends of the U. S.—the prospect of anarchy from the laxity of government every where; and to other considerations.

4. He then proceeded to the remedy; the basis of which<sup>he said,</sup> must be the republican principle

He [<sup>["then" stricken out]</sup> proposed as conformable to his ideas the following resolutions, which he explained one by one.

[here insert ye Resolutions annexed]

He concluded with an exhortation, not to suffer the present opportunity of establishing general peace, harmony, happiness and liberty in the U. S. to pass away unimproved.\*

Resolutions proposed by Mr. Randolph in Convention.

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\*This abstract of the Speech was furnished to J. M. by Mr. Randolph [<sup>["as" stricken out]</sup> and is in his hand writing. As a report of it from him, had been relied on, it was omitted by J. M



May 29. 1787.

1. Resolved that the articles of Confederation ought to be so corrected & enlarged as to accomplish the objects proposed by their institution ; namely. "common defence, security of liberty and general welfare."

2. Res<sup>d</sup> therefore that the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. Res<sup>d</sup> that the National Legislature ought to consist of two branches.

4. Res<sup>d</sup> that the members of the first branch of the National Legislature ought to be elected by the people of the several States every            for the term of            ; to be of the age of            years at least, to receive liberal stipends by which they may be compensated for the devotion of their time to public service ; to be ineligible to any office established by a particular State, or under the authority of the United States, except those beculiarly belonging to the functions of the first branch, during the term of service, and for the space of            after its expiration ; to be incapable of re-election for the space of            after the expiration of their term of service, and to be subject to recall.

5. Resol<sup>d</sup> that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislatures, to be of the age of            years at least ; to hold their offices for a term sufficient to ensure their independency, to receive liberal stipends, by which they may be compensated for the devotion of their time to public service ; and to be ineligible to any office established by a particular

State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of after the expiration thereof.

6. Resolved that each branch ought to possess the right of originating Acts; that the National Legislature ought to be empowered to enjoy the Legislative Rights vested in Congress by the Confederation & moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation; to negative all laws passed by the several States, contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union ag<sup>st</sup> any member of the Union failing to fulfill its duty under the articles thereof.

7. Res<sup>d</sup> that a National Executive be instituted; to be chosen by the National Legislature for the term of        years, to receive punctually at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the Magistracy, existing at the time of increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the National laws, it ought to enjoy the Executive rights vested in Congress by the Confederation.

8. Res<sup>d</sup> that the Executive and a convenient number of the ["Ju" stricken out] National Judiciary, ought to compose a council of revision with authority to examine every act of the National Legislature before it shall operate, & every act of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the

National Legislature be again passed, or that of a particular Legislature be again negatived by            of the members of each branch.

9. Res<sup>d</sup> that a National Judiciary be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature, to hold their offices during good behaviour; and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. that the jurisdiction of the inferior tribunals shall be to hear & determine in the first instance, and of the supreme tribunal to hear and determine in the dernier resort, all piracies & felonies on the high seas, captures from an enemy; cases in which foreigners or citizens of other States applying to such jurisdictions may be interested, or which respect the collection of the National revenue; impeachments of any National officers, and questions which may involve the national peace and harmony.

10. Resolv<sup>d</sup> that provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of Government & Territory or otherwise, with the consent of a number of voices in the National legislature less than the whole.

11. Res<sup>d</sup> that a Republican Government & the territory of each State, except in the instance of a voluntary junction of Government & territory, ought to be guaranteed by the United States to each State

12. Res<sup>d</sup> that provision ought to be made for the [“amendment of the Articles of Union, whenever it shall seem necessary, and that the assent of the National Legislature ought

not to be required thereto" stricken out] continuance of Congress and their authorities and privileges, until a given day after the reform of the articles of Union shall be adopted, and for the completion of all their engagements.

13. Res<sup>d</sup> that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto.

14. Res<sup>d</sup> that the Legislative Executive & Judiciary powers within the several States ought to be bound by oath to support the articles of Union

15. Res<sup>d</sup> that the amendments which shall be offered to the Confederation, by the Convention ought at a proper time, or times, after the approbation of Congress to be submitted to an assembly or assemblies of Representatives, recommended by the several Legislatures to be expressly chosen by the people, to consider & decide thereon.

Wednesday May 30.

Roger Sherman (from Connecticut) took his seat.

The House went into Committee of the Whole on the State of the Union. M<sup>r</sup> [<sup>Gorham</sup> "Ghorum" stricken out] was elected to ["to" stricken out] the Chair by Ballot.

<sup>Randolph which</sup>  
The propositions of Mr. [“R and Mr. Pinkney which” stricken out] had been referred to the being  
Committee [“were” stricken out] taken up. [“it was agreed on his motion seconded by M<sup>r</sup> Gov<sup>r</sup>. Morris seconded by M<sup>r</sup> G. Morris” stricken out] He moved on the suggestion of M<sup>r</sup> G. Morris

["He M<sup>r</sup> Randolph moved" stricken out]\* that the first of his propositions to wit "Resolved that the articles of Confederation ought to be so`corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common

defence, security of liberty & general welfare . . . . .  
 . . . . . should be postponed in order to  
 consider the 3 following.

1. that a Union of States merely federal <sup>the</sup> [“was insufficient for the purpose of securing the liberty and happiness &c.” stricken out] <sup>will not accomplish the objects proposed by</sup>

2. that no treaty or treaties among the whole or part of the States, as individual sovereignties, would be sufficient.

3 that a national Government <sup>ought to be established</sup> consisting of a supreme Legislative, Executive & Judiciary. [“ought to be established.” stricken out]

The motion for postponing was seconded by M<sup>r</sup> Gov<sup>r</sup> Morris and unanimously agreed to.

Some verbal criticisms were raised ag<sup>st</sup> the first proposition, <sup>on motion of M<sup>r</sup> Butler seconded by M<sup>r</sup>. Randolph.</sup> and it was agreed <sup>less</sup> to pass on to the third, which underwent a discussion. [“more” stricken out] <sup>general</sup> however on its <sup>particular</sup> merits than on the force and extent of the terms national & supreme.

M<sup>r</sup> Charles Pinkney wished to know of M<sup>r</sup> Randolph whether he meant to abolish the State Govern<sup>ts</sup> altogether. M<sup>r</sup> R. replied that he meant by these general propositions merely to introduce [“d” stricken out] the particular ones which explained the outlines of the system he had in view.

M<sup>r</sup> Butler said he had not made up his mind on the subject, and was open to the light which discussion might throw <sup>After some general observations</sup> [“of a guarded character” stricken out]

on it. [“He seemed however to be rather cautious. He <sup>he concluded with saying that he had</sup> had he said” stricken out] <sup>the whole power was</sup> opposed the grant of powers to Cong<sup>s</sup> heretofore, because [“all power was” stricken out] vested in one body. The proposed distribution of the powers into different bodies changed the case, and would induce him to go great lengths.

Gen<sup>l</sup> Pinkney expressed a doubt whether the act of Cong<sup>s</sup> recommending the Convention, or the Commissions of the deputies to it, could authorize a discussion of a System founded on different principles from the federal Constitution.

M<sup>r</sup> [<sup>Gerry</sup> "Cherry" stricken out] seemed to entertain the same doubt.

M<sup>r</sup> Gov<sup>r</sup> Morris explained the distinction between a federal and national, supreme, Gov<sup>t</sup>; the former being a mere compact resting on the good faith of the parties; the latter [<sup>having</sup> "being" stricken out] a compleat and compulsive operation. He contended that in all communities there must be one supreme power, and one only.

M<sup>r</sup> Mason observed that the present confederation was not only deficient in <sup>not</sup> providing for coercion & punishment ag<sup>st</sup> delinquent States; but argued very cogently that punishment <sup>in the nature of things be executed on</sup> could not, [<sup>be exerted ag<sup>st</sup></sup> "be exerted ag<sup>st</sup>" stricken out] the States collectively, and therefore that such a Gov<sup>t</sup> was necessary as could directly operate on individuals, and would punish [<sup>only</sup> "only" stricken out] those whose guilt required it.

M<sup>r</sup> Sherman who took his seat to day, admitted that the Confederation had not given sufficient power to Congs. and that additional powers were necessary; particularly that of raising money which he said would involve many other powers. He admitted also that the General & particular jurisdictions ought in no case to be concurrent. He seemed however not be disposed to Make too great inroads on the existing system; intimating as one reason, that it would be wrong to lose every amendment, by inserting such as would not be agreed to by the States ¶

[<sup>insert here Note D</sup> "stricken out"]



It was moved by Mr. Read <sup>2d</sup>ed, by Mr. Chas. Cotesworth Pinkney, to postpone the 3<sup>d</sup>. proposition last offered by Mr. Randolph viz that a national Government ought to be established consisting of a supreme legislative Executive and Judiciary," in order to take up the following—viz. "Resolved that in order to carry into execution the Design of the States in forming this Convention, and to accomplish the objects proposed by the Confederation a more effective Government consisting of a Legislative, Executive and Judiciary ought to be established." The motion to postpone for this purpose was [<sup>lost</sup> "disagreed to" stricken out]

Yeas Massachusetts, Connecticut, Delaware S. Carolina—4

Nays ["." stricken out] N. Y. Pennsylvania, Virginia, North Carolina—4

[The passage beginning, "It was moved", and ending with the words, "North Carolina—4", was written upon a slip of paper attached and pasted over the words: "[insert here Note D)", immediately preceding, which were first stricken out.]

["as moved by" stricken out] Mr. ["Butler Randolph Butler" stricken out]  
as moved by Mr. Butler on the third proposition

On the question it was resolved in Committee of the whole that a national Govern<sup>t</sup> ought to be established consisting of a supreme Legislative Executive & Judiciary." Mass<sup>ts</sup> being ay—Connect. no. N. York divided [Col. Hamilton ay Mr Yates no] Penn<sup>a</sup> ay. Delaware ay. Virg<sup>a</sup> ay. N. C. ay. S. C. ay.

[Note E.]

Resol: 2. of Mr. R's proposition, towit—see May 29.

["["The paragraph meaning proposing" stricken out] that the right of suffrage should be proportioned to the quotas of contribution or the number of free inhabitants, as in different cases might be judged expedient, came next into consideration." stricken out]

The following Resolution being the 2<sup>d</sup>. of those proposed [<sup>["by Mr. Randolph" stricken out]</sup> ["may 29." stricken out] by Mr. Randolph was taken up. viz—"that the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases."

[The words beginning, "The following Resolution", and ending "in different cases.", were written upon a slip of paper which was pasted over the words beginning "[Note E.] The paragraph", and ending, "next into consideration", after these words had been stricken out.]

Mr. [<sup>Madison</sup> "M" stricken out] observing that the words <sup>["or to the number of"]</sup> free inhabitants." might occasion debates which would divert the Committee from the general question whether the [<sup>principle of</sup> "equality of votes" stricken out] should be changed, moved that they <sup>be</sup> might struck out.

Mr King observed that the quotas of contribution which

would alone remain as the measure of representation, would not answer; because waving every other view of the matter, the revenue might hereafter be so collected by the general Gov<sup>t</sup> that the sums respectively drawn from the States would <sup>not</sup> appear; and would besides be continually varying.

[“ Mr M. admitted the propriety of the observation, and at length proposed to get over the difficulty, by substituting in place of the whole clause, the following, to wit: “ that the <sup>equality of</sup> [‘rule’ stricken out] of suffrage established by the articles of Confederation ought not to prevail in the National legislature; and that an equitable ratio of representation ought to be substituted.” This was <sup>seconded by Mr. Gov<sup>r</sup>. Morris & seemed</sup> generally acceptable. [‘Dela’ stricken out] and would have been agreed to when ” stricken out]

[The passages beginning with the words, “ Mr. Madison admitted the propriety”, and ending with the words, “ would have been agreed to; when, ”, are contained on a piece of paper which was pasted over the paragraph: “ Mr. M. admitted the propriety of the observation, and at length proposed ”, &c., which had been first stricken out.]

Mr. Madison admitted the propriety of the observation, and that some better <sup>rule</sup> <sup>^</sup> [“ alternative ” stricken out] ought to be found.

Col. Hamilton moved to alter the resolution so as to read “ that the rights of suffrage in the national Legislature ought to be proportioned to the number of free inhabitants. Mr. Spaight <sup>2</sup>d<sup>d</sup>, the motion.

It was then moved that the Resolution be postponed, which was agreed to.

Mr. Randolph and Mr. Madison then moved the following resolution—“ that the rights of suffrage in the national Legislature ought to be proportioned ”

It was moved & <sup>2</sup>d<sup>d</sup>, to amend it by adding “ and not according to the present system ”—which was agreed to.

It was then moved and <sup>2</sup>d<sup>d</sup>, to alter the resolution so as to read “ that the rights of suffrage in the national Legislature ought not to be according to the present system.”

It was then moved & <sup>2</sup>d<sup>d</sup>, to postpone the Resolution moved by Mr. Randolph & Mr. Madison, which being agreed to;

Mr. Madison, moved, in order to get over the difficulties, the following resolution—“ that the equality of suffrage established by the articles of Confederation ought not to prevail in the national Legislature, and that an equitable ratio of representation ought to be substituted ” This was <sup>2</sup>d<sup>d</sup>, by Mr. Gov<sup>r</sup>. Morris, and being generally relished, would have been agreed to; when,

Mr Reed moved that the whole clause relating to the point of Representation [“ might ” stricken out] be postponed; [“ He ” stricken out] reminding the Com<sup>e</sup> that the deputies from Delaware were [“ instructed ” stricken out] restrained <sup>by</sup> <sup>^</sup> their comission from assenting to any change of the rule of suffrage, and in case such a change should be fixed on, it might become their duty to retire from the Convention.

[Illegible words stricken out] Mr Gov<sup>r</sup> Morris observed that the valuable assistance of those [“ del ” stricken out]



members could not be lost without real concern, and that so early a proof of discord in the [<sup>convention</sup> "meeting" stricken out] as a secession of a State, would add much to the regret; that the change proposed was however so fundamental an article in ["the general Gov<sup>t</sup>" stricken out] a national Gov<sup>t</sup> that it could not be dispensed with. ¶ M<sup>r</sup> [<sup>Madison</sup> "M" stricken out] observed that whatever reason might have existed for the equality of suffrage when the Union was a federal one among sovereign States, it might cease when a national Govern<sup>t</sup> should be put into the place. In the former case, the acts of Cong<sup>s</sup> depended so much for their efficacy on the cooperation of the States, that ["the latter"<sup>these</sup> stricken out] had a weight both within & without Congress, nearly in proportion to their extent and importance. In the [<sup>latter</sup> "second" stricken out] case, as the acts of the Gen<sup>l</sup> Gov<sup>t</sup> would take effect without the intervention of the State legislatures, a vote from a small State w<sup>d</sup> have the same efficacy & importance as <sup>a vote</sup> from a large one, and there [<sup>was</sup> "were" stricken out] the same reason for [<sup>different members</sup> "varying the re" stricken out] of representatives from different States, [<sup>as from</sup> "as in the case of" stricken out] Counties of different extents within particular States. He suggested as an expedient for at once taking <sup>the</sup> sense of the members on this point and saving the Delaware deputies from embarrassment, that the question should be taken in Committee, and the clause ["postponed" stricken out] on report to the House <sup>be postponed without a question there</sup>. This however did not appear to satisfy M<sup>r</sup> Read. ¶ By several it was observed that no just construction of the Act of Delaware, could require or ["even" stricken out] justify a secession of her deputies, even if the resolution were to be carried thro' the House as well as the Committee. It was finally agreed however that the clause should

be postponed: it being understood that in the event <sup>the proposed</sup> change of representation would certainly be agreed to, no objection or difficulty being started from any other quarter than from Delaware.

The motion of Mr. Read to postpone being agreed to

The Committee then rose. The Chairman reported progress, and the House having resolved to resume the subject in Committee tomorrow,

Adjourned to 10 O'clock

Thursday ["June 1<sup>st</sup>" stricken out] May 31.

William Pierce from Georgia took his seat.

In Committee of the whole on Mr. R. <sup>andolph's</sup> propositions.

The 3<sup>d</sup> [<sup>Resolution</sup> "proposition" stricken out] "that the national Legislature ought to consist of two branches" was agreed to without debate or dissent, except that of Pennsylvania, given probably from complaisance to Doc<sup>r</sup>. Franklin who was understood to be partial to a single House of Legislation. ["respect to" <sup>wh</sup> stricken out]

Resol: 4. <sup>clause</sup> first ["member" stricken out] members of the first <sup>wh</sup> ["on proposition" stricken out] "that the <sup>wh</sup> ["first branch" stricken out] ought to be elected by the people of <sup>the several</sup> States" being taken up,

Mr. Sherman opposed the election by the people, insisting that it ought to be by the <sup>State</sup> Legislatures. The people he said, [<sup>immediately</sup> "ought to" stricken out] should have as little to do as may be about the ["ir" stricken out] Government. They want ["ed" stricken out] information and are ["are", written over and upon "were"] constantly liable to be misled.

Mr. G ["h" stricken out]erry. The evils we [<sup>experience</sup> "express" stricken out] flow from the excess of democracy. The people do not want virtue; but are the dupes of [<sup>pretended</sup> "the demagogues" stricken out] In Mass<sup>ts</sup> it has been fully confirmed by experience that they are ["are", written over and

upon "were"] daily misled into the most baneful measures and opinions by the reports circulated by designing men, and which no one on the spot [<sup>can</sup>illegible word stricken out] refute. One principal evil [<sup>arises</sup>"arose" stricken out] from the want of due provision for those employed in the administration of Government. It seem<sup>would</sup>["s" stricken out] to be a [<sup>maxim</sup>"principle" stricken out] of democracy to starve the public servants. He [<sup>mentioned the popular clamour</sup>"related the proceedings in Mass<sup>ts</sup> in in Mass<sup>ts</sup>, for <sup>the</sup>reduction causing the red" stricken out] of salaries and the attack made on that of the Gov<sup>t</sup> though secured by the spirit of the Constitution itself. He had been too republican heretofore: he was still however republican, [<sup>but</sup>"and" stricken out] had been taught by experience the danger of the levelling spirit.

M<sup>r</sup> Mason. argued strongly for an election of the larger branch by the people. It was to be <sup>the</sup>grand depository of the democratic principle of the Gov<sup>t</sup>. It was, so to speak, to be our House of Commons—It ought <sup>to</sup>know & sympathise with every part of the community; and ought therefore to be taken from different parts of the whole republic, but also from different districts of the larger members of it, which had in several instances particularly in Virg<sup>a</sup>, different interests and views arising from difference of produce, of habits &c &c. He admitted that we had been too democratic but was afraid we s<sup>d</sup> incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity & policy, considering that however affluent their circumstances, or elevated their situations, might be, the course of a few years, not only might but certainly would, distribute their posterity throughout the lowest classes of Society. Every selfish motive therefore,

every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights [“of the rights” stricken out]—and happiness of the lowest than of the highest [“classes”<sup>orders</sup> stricken out] of Citizens.

Mr Wilson contended strenuously for drawing the most numerous branch of the Legislature immediately from the people. He was for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican Government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State Legislatures by making them the electors of the national Legislature. All [“competition”<sup>interference</sup> stricken out] between the general and local Govern<sup>ts</sup> should be obviated as much as possible. On examination it would be found that the opposition [“s”<sup>of States</sup> stricken out] to federal measures had proceeded much more from the Officers of the States, than from the people at large.

Mr Madison considered the popular election of one branch of the national Legislature as essential to every plan of free Government. He observed that in some of the States one branch of the Legislature was composed of men [“separated”<sup>already removed</sup> stricken out] from the people by an intervening body of electors. That if the first branch of the general legislature should be elected by the State Legislatures, the second branch elected by the first—the Executive by the second<sup>together</sup> [illegible word stricken out] with the first; and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt. He was an advocate for the policy of refining the popular

appointments by successive filtrations, but thought it might be pushed too far. He wished ["it t" stricken out] the expedient to be resorted to only in the appointment of the second branch of the Legislature, and in the Executive & judiciary branches of the Government. He thought too that the great fabric to be raised would be <sup>more</sup> stable and durable if it["s" stricken out] should rest on the solid foundation of the people themselves, than if <sup>it</sup> should stand merely on the pillars of the Legislatures.

Mr G["h" stricken out]erry did not like the election by the people. The maxims taken from the British constitution were often fallacious when applied to our situation which was extremely different. Experience he said had shewn that the State Legislatures drawn immediately from the people did <sup>always</sup> not possess their confidence. He had no objection however to an election by the people if it were so qualified that men of honor & character might not be unwilling to be joined in the appointments. He seemed to think the people might nominate a certain number ["ought" stricken out] <sup>out</sup> of which the State legislatures should be bound to choose.

Mr Butler ["opposed" stricken out] <sup>thought</sup> an election by the people [illegible word stricken out] an impracticable mode.

On the question for an election of the first branch of the national Legislature, by the [illegible word stricken out] people, Mass<sup>ts</sup> ay. Connec<sup>t</sup> div<sup>d</sup> N. York ay. N. Jersey no. Pen<sup>a</sup> ay. Delaw<sup>e</sup> div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. no. Georg<sup>a</sup> ay.

The Clauses relating to the qualifications of members of the National Legislature <sup>being</sup> postp<sup>d</sup> nem. con. as entering too much into detail for general propositions;

The ["next proposition discussed was" <sup>Committee proceeded to Resolution 5.</sup> stricken out] "that the second, [or senatorial] branch of the National Legislature



["should"<sup>ought to</sup> stricken out] be chosen by the first branch out of persons nominated by the State Legislatures".

M<sup>r</sup> Spaight contended that the 2<sup>d</sup> branch ought to be chosen by the State Legislatures and moved ["for such" stricken out] an amendment to that effect.

M<sup>r</sup> Butler apprehended that the taking so many powers out of the hands of the States as was proposed, tended to destroy all that balance<sup>and security</sup> of interests among the States which it was necessary to preserve; and called on M<sup>r</sup> Randolph the mover of the propositions, to explain the extent of his ideas, and particularly the number of members he meant to assign<sup>to</sup> this second branch.

M<sup>r</sup> Rand<sup>l</sup> observed that he had at the time of offering his propositions stated his ideas as far as the nature of general propositions required; that details made no part of the plan, and could not perhaps with propriety have been introduced. If he was to give an opinion as to the number of the second branch, he should say that it ought to be much smaller than that of the first; so small as to be exempt from the passionate proceedings to which numerous assemblies<sup>are</sup> ["were" stricken out] liable. He observed that the general object was to provide a cure for the evils under which the U. S. labored; that in tracing these evils to their<sup>origin</sup> ["source" stricken out] every man had found it in the turbulence and follies of democracy: that some check therefore was to be sought for ag<sup>st</sup> this tendency of our Governments: and that a good Senate seemed most likely to answer the purpose.

M<sup>r</sup> King reminded the Committee that the choice of the second branch as proposed [by M<sup>r</sup> Spaight] viz. by the State Legislatures would be impracticable, unless it was to be very

numerous, or the idea of proportion among the States was to be disregarded. According to this idea, there must <sup>be</sup> 80 or 100 members to entitle Delaware to the choice of one of them.—Mr Spaight [~~“hereupon”~~] withdrew his motion.

Mr Wilson opposed both a nomination by the State Legislatures, and an election by the first branch of the national Legislature, because the second branch of the latter, ought to be independent of both. He thought both branches of the National Legislature ought to be chosen by the people, but was not prepared with a specific proposition. He suggested the mode of choosing the Senate of N. York. [~~“as”~~] <sup>election</sup> uniting several districts, for one branch, in out] to wit of [~~“enlarging the districts”~~] <sup>a</sup> choosing members for the other branch, as <sup>a</sup> good model.

Mr Madison observed that such a mode would destroy the influence of the smaller States associated with larger ones <sup>the same</sup> in [~~“a”~~] district; as the latter would [~~“be sure to”~~] <sup>within</sup> choose from [~~“among”~~] themselves, altho' better men might be found in the former. The election of Senators in Virg<sup>a</sup> where large & small counties were often formed into <sup>one</sup> district for the purpose, had illustrated this <sup>consequence</sup> [~~illegible word~~] Local partiality, <sup>often</sup> would often prefer a resident within the County or State, to a [~~“resident”~~] <sup>candidate</sup> of superior merit residing out of it. Less [~~“er”~~] merit also in a resident would be more known throughout his own [~~“County or”~~] State.

Mr Sherman favored an election of one member by each of the State Legislatures.

Mr Pinkney moved to strike out the “nomination by the State Legislatures”. On this question.

\*this question  
the printed  
omitted in  
["printed Official"  
stricken out] Journal; &  
the votes ["erroneously"  
stricken out] applied to  
the succeeding  
one, instead of the  
votes as here  
stated.

[this note to be in  
the bottom margin]

\* Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no. N. J.  
no. N. J. no. Pen<sup>a</sup> no. ["N. J." stricken out] Del.  
div<sup>d</sup> V<sup>a</sup> no. N. C. no. S. C. no Georg no.

whole

On the question for electing by the first branch out of  
nominations by the State Legislatures, Mass. ay. Con<sup>t</sup> no.  
N. Y. no. N. Jersey. no. Pen<sup>a</sup> no. Del. no. Virg<sup>a</sup> ay. N. C. no.  
S. C. ay. G<sup>a</sup> no.

So the clause was disagreed to & a chasm left in this part  
of the plan.

Resolution  
sixth: ["proposition" stricken out]

The ["clause" stricken out] stating the cases in which  
the national Legislature ought to legislate was next taken  
into discussion. On the question whether each branch sh<sup>d</sup>  
originate laws, there was an unanimous affirmative without  
debate. On the question for transferring all the Legislative  
powers of the Cong<sup>s</sup> to this Assembly, there was also a silent  
affirmative nem. con.

proposition

On the ["question" stricken out] for giving "Legislative  
power in all cases to which the State Legislatures were indi-  
vidually incompetent".

M<sup>r</sup> ["Butler" stricken out]. Pinkney, & M<sup>r</sup> Rutledge objected  
to the vagueness of the term incompetent, and said they could  
not well decide how to vote until they should see ["a more"  
stricken out] exact enumeration of the powers comprehended  
by this definition.

M<sup>r</sup> Butler repeated his fears that we were running into an  
extreme in taking away the powers of the States, and called  
on M<sup>r</sup> Randolph for the extent of his meaning.

disclaimed

M<sup>r</sup> Randolph any intention to give indefinite powers to the



national Legislature, declaring that he was entirely opposed to such an inroad on the State jurisdictions, and that he did not think any considerations whatever could ever change his determination. His opinion was fixed on this point.

Mr Madison said that he had brought with him into the Convention a strong [<sup>bias</sup> "biass" stricken out] in favor of an enumeration and definition of the powers necessary to be exercised by the national Legislature; but had also [<sup>brought</sup> "grave" stricken out] doubts concerning its practicability. His wishes remained unaltered; but his doubts had become stronger. What his opinion might ultimately be he could not yet tell. But he should shrink from nothing which [<sup>he</sup> "he" stricken out] should be found essential to such a form of Gov<sup>t</sup> as would provide for the safety, liberty and happiness of the Community. This being the end of all our deliberations, all the necessary means for attaining <sup>it</sup> must, however reluctantly, be submitted to.

On the question for giving [<sup>the</sup> "the" stricken out] powers, in cases to which the States are not competent,

Mass<sup>ts</sup> ay. Con<sup>t</sup> div<sup>d</sup> [Sharman no Elseworth ay] N. Y. ay. N. J. ay. Pa<sup>a</sup> ay. Del. ay. Va<sup>a</sup> ay. N. C. ay, S. Carolina ay. Georg<sup>a</sup> ay.

The other clauses giving powers necessary to preserve <sup>to negative all State laws contravening in the opinion of the Nat Leg the articles of Union</sup> harmony among the States [<sup>and so forth</sup> "and so forth" stricken out] down to the last clause,

(the words "or any treaties subsisting under the authority of the Union", being added after the words "contravening &c. the articles of the Union"; on motion of Dr. Franklin) <sup>debate</sup> WERE

agreed to with<sup>t</sup> [<sup>objection</sup> "objection" stricken out] or dissent.

<sup>Resolution 6. authorizing</sup> The clause [<sup>last of ["proposition 6. concerning"]</sup> "proposing" stricken out] an exertion of the force of the whole ag<sup>st</sup> a delinquent State came next into consideration.

Mr Madison, observed that the more he reflected on the

use of  
 ["application of" stricken out] force, the more he doubted the practicability, the justice and the efficacy of <sup>it</sup> ["this expedient" stricken out] when applied to ["collective" stricken out] people collectively and not individually.—, A Union of the States ["formed" stricken out] <sup>containing</sup> such an ingredient seemed to provide for its own destruction. The use of force ag<sup>st</sup> a State, would look more like a declaration of war, than an infliction of punishment, and would probably be considered by the party attacked as [illegible word stricken out] a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this recourse unnecessary, and moved that the clause ["might" stricken out] be postponed. ["till the contrary should be found on trial to be the case." stricken out] This motion was agreed to nem. con.

The Committee then rose & the House

Adjourned

These memoranda are contained on five slips of paper preserved by Madison with his Notes of the Debates, and are accordingly printed here in full.

	May 14, 1787—	["the day" stricken out] appointed for the meeting of y <sup>e</sup> Convention, <sup>on the</sup> 7 ["formed States met
25.—	a quorum" stricken out]	list of members assembled—G. Washington unanimously
page 1	notes of J. M. elected	
to	elected pres <sup>t</sup> . Major Jackson Secy—	credentials of deputies read. Comm <sup>ee</sup> app <sup>d</sup> to
4)	prepare rules.	
	Mr. Wythe from	
28.	Other members attended—	Comm <sup>ee</sup> reports rules—one of them rejected others
pa. 4	adopted—note of J. M. on rule of voting. a letter from R. I. presented by G.	
to	Morris.	
10	two additional members take their seats—["addition at" stricken out] rules	
29.	added on report of Mr W. Mr Randolph <sup>on the part of the Virginia delegation</sup> ["then" stricken out] opened the main	
pa. 10	business, ["& after" stricken out] enumerating ["the" stricken out] defects of	
to	the ["old system" stricken out] proposed his resolutions which were referred to	
38.	a Com <sup>ee</sup> of the whole—["to whom were also referred Mr Pinkneys resolutions—	
	note &c on Mr P <sup>s</sup> . " stricken out] resolutions (["copy from" stricken out] journal)	
	by J. M.	
	& note &c on them—resolutions referred to same Com <sup>ee</sup>	
pa. 38	30. Mr Sherman attended. In Com <sup>ee</sup> of the whole—Mr R <sup>s</sup> <sup>1. res. was on his motion postponed.</sup> ["moved the postpone-	
to	ment of his 1 resolution" stricken out] to consider three others asserting the	
47	inefficiency of the federal & <sup>the 3d</sup> the necessity for a national & supreme gov <sup>t</sup> . The	
	latter after some discussion was resolved ["in Com Mr R <sup>s</sup> 2 <sup>d</sup> res relating to the	
	right of suffrage was debated occupied the rest of the day & was" stricken out]	
	after debating the 2. res. on the right of suffrage it was postponed—	
	Mr Pierce attended.	
31.	The 3. res. dividing the Nat. Leg. into 2 branches agreed to without debate.	
	The 1 <sup>st</sup> clause of 4 <sup>th</sup> res. referring the election of the first branch to the people	
	debated and carried. 6 ays. 2 noes—2 divided. The other clauses postponed. The 5. Res. for	

Friday, June 1<sup>st</sup> 1787.

William Houston from Georgia took his Seat

The Committee of the whole [<sup>["prop 7" stricken out] Resolution 7.</sup> "on Mr Randolph's propositions" stricken out], proceeded to [<sup>instituted, to be ["appointed" stricken out.] chosen</sup> "clause" stricken out] "that a national Executive be [<sup>&c</sup> "appointed" stricken out] by the national Legislature [<sup>&c</sup> "consisting of " stricken out] ——— for the term of        years to be ineligible thereafter, to possess the executive powers of Congress &c"—["See Prop<sup>m</sup>. 7. being taken up," stricken out]

Mr Pinkney was for a vigorous Executive but was afraid the Executive powers of Congress might extend to peace & war &c which would render the Executive a Monarchy, of the worst kind, towit an elective one.

Mr Wilson moved that the Executive consist of a single person. Mr Pinkney seconded the motion, <sup>so as to read "that a national</sup>  
Ex. to consist of a single person, be instituted—

A considerable pause ensuing and the Chairman asking if he should put the question, Doc<sup>r</sup> Franklin observed that it

electing the 2<sup>d</sup> branch by the first from nominations of State Legislatures, & [<sup>after debate</sup> "an" stricken out] proposed amendment to leave out the nomination, negatived.

Mem. pa. 342. Mr M's motion renewed from preceding day—no allusion to it on that nor 3 preceding days.

pa. 350 quest. to agree to Mr M's motion 2 ays 6 noes—still seems agreed to.

But in the interval between the proposal of the Convention and the time of its meeting, such had been the advance of public opinion in the desired direction, stimulated as it had been by the effect of the contemplated [<sup>scruple</sup> "meeting" stricken out] object of the meeting, in turning the general attention to the critical state of things, and in calling forth the sentiments and exertions of the most enlightened and influential patriots, that the Convention, thin as it was, did not [<sup>scruple</sup> "hesitate" stricken out] to decline the limited task assigned to it, and to recommend to the States a Convention with powers adequate to the occasion; Nor had it been unnoticed that the commission of the New Jersey deputation had extended its object to a general provision for the exigencies of the Union.

Instead of the proposed negative the objects of it [<sup>were left ["to" stricken out] as ["prov'd" stricken out]</sup> "was left the provisions found" stricken out], as finally [<sup>as finally</sup> "made" stricken out] provided for in the Constitution.

"that he wished instead of them (partial Conventions) to see a General Convention take place, and that he should soon in pursuance of instructions from his Constituents, propose to Congress a plan for that purpose, the object would be to strengthen the Federal Constitution".

Chasm from 1793 to 1798

for 98—except 1 of Dec<sup>r</sup> 11, 1798

for 99—except Aug. 28—Nov<sup>r</sup>. 2, Nov<sup>r</sup>. 3,

for 1800 except June 18—Aug—Dec<sup>r</sup>. 20th

for 1801. exc<sup>t</sup>. Jan<sup>y</sup>. 10, Feb<sup>y</sup> 28, Mar<sup>y</sup>. 7, Apl. 22, Oct<sup>r</sup>. 3,

from 1801. to 1809—except Oct<sup>r</sup>. 19, 1805

was a point of great importance and wished that the gentlemen would deliver their sentiments on it before the question was put.

Mr Rutledge animadverted on the shyness of gentlemen on this and other subjects. He said it looked as if they supposed themselves precluded by having frankly disclosed their opinions from afterwards changing them, which he did not take to be at all the case. He said he was for vesting the Executive ["the Ex" stricken out] power in a single person, tho' he was not for giving him ["that" <sup>the power</sup> stricken out] of war and peace. A single man would feel the greatest responsibility and administer ["the public" stricken out] the public affairs best.

Mr Sherman said ["that" stricken out] he considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the depository of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department, and consequently of the number necessary from time to time for doing it, he wished the number might <sup>not</sup> be fixed, but ["left <sup>that the legislature should be at liberty to appoint one or more</sup> to be determined by the Legislature from time to time" stricken out] as experience might dictate.

Mr Wilson preferred a single magistrate, as giving most energy dispatch and responsibility to the office. He did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of a Legislative nature. Among others that of war & peace &c. The only powers he conceived strictly Executive were those of executing the laws, and appointing ["not" stricken out] appertaining to and officers, not appointed by the Legislature.

Mr G["h" stricken out]erry favored the policy of annexing  
to the Executive  
 a Council in order to give weight & inspire confidence.

Mr Randolph strenuously opposed a unity in the Executive magistracy. He regarded it as the fœtus of monarchy. We had he said no motive to be governed by the British Government as our prototype. He did not mean however to throw censure on that Excellent fabric. If we were in a situation to copy it he did not know that he should be opposed <sup>to</sup> it; but the fixt genius of the people of America required a different form of Government. He could not see why the great requisites for the Executive department, vigor, despatch & responsibility could not be found in three men, as well as in one man. The Executive ought to be independent. It ought therefore to

[“Three distinct from one w<sup>d</sup>. use it to his equal partialities]

consist of more than one.

Three taken from so many divisions of the Union w<sup>d</sup>. inspire more confidence” stricken out.]

Mr Wilson said that Unity in the Executive instead of being the fetus of Monarchy would be the best safeguard against tyranny. He repeated that he was not governed by the British Model which was inapplicable to <sup>the</sup> [“the” stricken out] situation of this Country; the extent of which was so great, and the manners so republican, that nothing but a great confederated Republic would do for it.

Mr Wilson’s motion for a single magistrate was postponed by common consent, the <sup>Committee</sup> seeming unprepared for any decision on it;

and the first part of the clause agreed to, viz. that a National Executive be instituted

Mr Madison—<sup>thought</sup> [“observed that he thot” stricken out] it would be proper, before a choice sh<sup>d</sup> be made between a unity and a plurality in the Executive, to fix the extent of the Executive authority; that as certain powers were in their nature Executive, and must be given to that departm<sup>t</sup> whether administered by one or more persons, a definition of their extent would assist the judgment in determining how far they

might be safely entrusted to a single officer. He accordingly moved that so much of the clause before the Committee as related to the powers of the Executive sh<sup>d</sup> be struck out & that [“the following words should be inserted” <sup>after the words</sup> stricken out] “that a national Executive ought to be instituted” [“with” <sup>there be inserted the words following</sup> stricken out] viz, “with power to carry into effect. the national laws. to appoint to offices in cases not otherwise provided for, and to execute such other powers as may from time to time be delegated by the national Legislature”. The words [“in-” <sup>“not Legislative nor Judiciary in their nature.”</sup> stricken out] “terlined.” stricken out] were added to the proposed amendment in consequence of a suggestion by Gen<sup>l</sup> Pinkney that improper powers might be delegated, <sup>otherwise</sup> [“as the motion first stood” stricken out].—

Mr. Wilson seconded this motion [“of Mr.” stricken out].—

Mr Pinkney moved to amend the amendment by striking out the last member of it; viz. [“that” stricken out] “and to execute such other powers not Legislative nor Judiciary in their nature as may from time to time be delegated.” He said they were unnecessary, the object [“ed” stricken out] of them being included in the [“first” illegible word stricken out] [“power to carry into effect the national laws”.

Mr Randolph seconded the motion.

Mr Madison did not know that the words were absolutely necessary, or even the preceding words. “to appoint to offices &c. the whole being perhaps included in the first member of the proposition. He did not however see any inconveniency in retaining them, and cases might happen [“it” stricken out] <sup>in</sup> which they [“would at least” stricken out] might serve to prevent doubts and misconstructions.

[“The motion was agreed to. as was the amendment of Mr thus amended by the motion.

[“(Note—this was done by a division of the Question, the first part of Mr — amendt. being agreed to—the last disagreed to in consequence of the Objection of Mr P. & Mr. R—



[“ The clause next considered related to the mode of appointing the Executive & the term of it” stricken out]

In consequence of the motion of Mr. Pinkney, the question on Mr. Madison's motion was divided: by the votes of Connecticut, N. Y. N. J. Penn<sup>a</sup>, Del. N. C. & Geo: agst. Mass. Virg<sup>a</sup>, & S. Carolina and the words objected to by Mr. Pinkney struck out; the preceding part of the motion being first agreed to: Connecticut divided, all the other States [<sup>ag</sup>” stricken out] in the affirmative.

The next clause in Resolution 7, relating to the mode of appointing, & the duration of, the Executive being under consideration,

[The paragraphs beginning, “In consequence of”, and, “The next clause”, respectively, are written upon a slip of paper which was pasted over the two paragraphs just preceding. beginning, respectively, “The motion was”, and, “The clause next”, after these two paragraphs had been stricken out.]

Mr. Wilson said he was almost unwilling to declare the mode which he wished to take place, being apprehensive that it might appear chimerical. He would say however at least that in theory he was for an election by the people; Experience, particularly in N. York & Mass<sup>ts</sup>, <sup>shewed</sup> that an election of the first magistrate by the people at large, was both a convenient & successful mode. The objects of choice in such cases must be persons whose [<sup>wh</sup>” stricken out] merits have general notoriety.

Mr. Sherman was for the appointment by the Legislature, and for making him absolutely dependent on that body, as it was the will of that which was to be executed. An independence of the Executive on the supreme Legislative, was in his opinion the very essence of tyranny if there was any such thing.

Mr. Wilson moves that the blank for the term of duration should be filled with three years, observing at the same time that he preferred this short period, on the supposition that a re-eligibility would be provided for.

Mr. Pinkney moves for seven years.

Mr. Sherman was <sup>for</sup> three years, and ag<sup>st</sup> the doctrine of rotation as throwing out of office the men best qualified to execute its duties.

Mr Mason was for seven years at least, and for prohibiting a re-eligibility as the best expedient both for preventing the effect of a false complaisance on the side of the Legislature towards unfit characters; and a temptation on the side of the Executive to intrigue with the Legislature for a re-appointment.

Mr Bedford was strongly opposed to so long a term as seven years. He begged the committee to consider what the situation of the Country would be, in case the first magistrate should be saddled <sup>on it</sup> for such ["a" stricken out] period ["on it after" stricken out] and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. An impeachment he said would be no cure for this evil, as an impeachment would reach misfeasance only, not incapacity. He was for a triennial election, and for an ineligibility after a period of nine years.

On the question for seven years,

Mass<sup>ts</sup> divid<sup>d</sup> Con<sup>t</sup> no. N. Y. ay. N. J. ay. Pen<sup>a</sup> ay. Del. ay. Virg<sup>a</sup> ay. N. C. no. S. C. no. Georg. no.

There being 5. ays, 4 noes, 1 divid<sup>d</sup> <sup>the</sup> a question was asked whether a majority had voted in affirmative? The President decided that it was an affirmative vote.

The mode of appointing the Executive was the next question.

Mr Wilson renewed his declarations in favor of an appointment by the people. He wished to derive both branches of the Legislature from the people, without the intervention of the State Legislatures <sup>but the Executive also;</sup> in order to make them <sup>not only</sup> as independent <sup>as possible</sup> of each other, as well as of the States;

Col. Mason favors the idea, but thinks it impracticable. He



wishes however that M<sup>r</sup> Wil.<sup>son</sup> might have time to digest it into his own form,—the clause “to be chosen by the National Legislature”—was accordingly postponed.—

M<sup>r</sup> Rutledge suggests an election of the Executive by the second branch only of the national Legislature—

The Committee then rose and the House

[“Rose & Adj<sup>d</sup>” stricken out]

Satur adjourned.

Saturday June 2<sup>d</sup> In Committee of whole.

\*[Insert the <sup>words</sup> noted here]

It was mov<sup>d</sup>. & 2<sup>d</sup>ed. to postpone ye Resol: of Mr. Randolph [<sup>respecting</sup> “as to”<sup>in order</sup> stricken out] the Executive .  
the  
to take up 2<sup>d</sup>. branch of the Legislature; which being negatived by Mas: Con: Del: Virg: N. C.  
S. C. Geo: ag<sup>st</sup>. N. Y. Pen<sup>a</sup>. Mary<sup>d</sup>

The mode of appointg ye Executive <sup>was</sup> resumed. ¶ M<sup>r</sup> Wilson made the following motion, to be substituted for the mode proposed by Mr. Randolph’s resolution.

[illegible word stricken out] “that the Executive Magis-  
tracy shall be [<sup>elected</sup> “chosen” stricken out] in the following man-  
ner: <sup>That</sup> the States [<sup>& that</sup> “shall” stricken out] be divided into  
districts: the persons qualified [<sup>to vote in each</sup> “within said” stricken out]  
district [<sup>to vote</sup> “to vote” stricken out] for members of the first  
branch of the national Legislature [<sup>shall</sup> “shall” stricken out]  
elect members for their respective districts to be electors  
of the Executive [<sup>magistrate or”</sup> “magistrate or” stricken out] magistracy.  
that the said Electors of the Executive [<sup>magistracy or”</sup> “magistracy or”  
stricken out] magistracy meet at and they or any  
of them so met shall proceed to elect by ballot, but  
not out of their own body person in whom the Execu-  
tive authority of the national  
Government shall be vested.”

\* William Sam<sup>l</sup>. Johnson, from Connecticut,  
Daniel of St. Thomas Jennifer from Mary<sup>d</sup>—&  
John Lansing Jr. from N. York, took their seats—

Mr Wilson repeated his arguments in favor of an election without the intervention of the States. He supposed too that this mode ["with" stricken out] would produce more confidence among the people in the first magistrate, than an election by the national Legislature.

Mr G["h" stricken out]erry, opposed the election by the national legislature. There would be a constant intrigue kept up for the appointment. The Legislature & the candidates w<sup>d</sup> bargain & play into one another's hands. votes would be given by the former under promises or expectations from the latter, of recompensing them by services to members of the Legislature or to their friends. He liked the principle of Mr Wilson's motion, but fears it would alarm & give a handle to the State partizans, as tending to supersede altogether the State authorities. He thought the Community not yet ripe for stripping the States of their powers, even ["leaving them" stricken out] <sup>as</sup> <sup>not</sup> such might be requisite for local purposes. He ["is" <sup>was</sup> stricken out] <sup>should</sup> for waiting till people feel more the necessity of it. He seemed to prefer the taking the suffrages of the States instead of Electors, or letting the Legislatures nominate, and the electors appoint. <sup>He</sup> <sup>the</sup> was not clear that the people ought to act directly even in choice of electors, being too little informed of personal characters in large districts, and liable to deceptions.

Mr Williamson could see no advantage in the introduction of Electors chosen by the people who who would stand in the same relation to them as the State Legislatures, whilst the expedient would be attended with great trouble and expense. On the question for agreeing to Mr Wilson's <sup>substitute, it was negatived</sup> ["prop" stricken out] Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no.\* P<sup>a</sup> ay. Del. no. Mar<sup>d</sup> ay. Virg<sup>a</sup> no. N. C. no. S. C. no. Geo<sup>a</sup> no.

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\* N. Y. in the printed Journal—"divided".

On the question for electing <sup>the</sup> Executive by <sup>the</sup> national Legislature, Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. ay. Pen<sup>a</sup> no. Del. ay. Mary<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

[“Doc<sup>r</sup> Franklyn moved that what related to the compensation of the Executive for services should be struck out, and that it be declared, that it should receive it <sup>their</sup> reasonable expenses should be defrayed; but that they should receive no salary, stipend, fee or reward whatsoever for their services. He said that being very sensible of the effect of age on his memory, he had been unwilling to trust to that for the observations which seemed to support his motion, and had reduced them to writing, that he might with the permission of the Committee, read instead of speaking them. M<sup>r</sup> Wilson read the paper for him. The following is a literal copy of it.” stricken out.]

Doc<sup>r</sup> Franklin moved that what related to the compensation for the services of the Executive be postponed, in order to substitute—“whose necessary expenses shall be defrayed, but who shall receive no salary, stipend fee or reward whatsoever for their services”—He said that being very sensible of the effect of age on his memory, he had been unwilling to trust to that for the observations which seemed to support his motion, and had reduced them to writing, that he might with the permission of the Committee, read instead of speaking them. M<sup>r</sup> Wilson made an offer [“to the Doc<sup>r</sup>” stricken out] to read the paper, which was accepted—

The following is a literal copy of the paper.

Sir.

It is with reluctance that I rise to express a disapprobation of any one article of the plan for which we are so much obliged to the honorable gentleman who laid it before us.

From its first reading I have borne a good will to it, and in general wished it success. In this particular of salaries to the Executive branch I happen to differ; and as my opinion may appear new and chimerical, it is only from a persuasion that it is right, and from a sense of duty that I hazard it. The Committee will judge of my reasons when they have heard them, and their judgment may possibly change mine.— I think I see inconveniences in the appointment of salaries; I see none in refusing them, but on the contrary, great advantages.

Sir, there are two passions which have a powerful influence on the affairs of men. These are ambition and avarice; the love of power, and the love of money. Separately each of these has great force in prompting men to action; but when united in view of the same objects, they have in many minds the most violent effects. place before the eyes of such men a post of honour that shall at the same time be a place of profit, and they will move heaven and earth to obtain it. The vast number of such places it is that renders the British Government so tempestuous. The struggles for them are the true sources of all those factions which are perpetually dividing the Nation, distracting its councils, hurrying sometimes into fruitless & mischievous wars, and often compelling a submission to dishonorable terms of peace.

And of what kind are the men that will strive for this profitable pre-eminence, through all the bustle of cabal, the heat of contention, the infinite mutual abuse of parties, tearing to pieces the best of characters? It will not be the wise and moderate, the lovers of peace and good order, the man fit-test for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their

selfish pursuits. These will thrust themselves into your Government and be your rulers. And these too will be mistaken in the expected happiness of their situation: For their vanquished competitors of the same spirit, and from the same motives will perpetually be endeavouring to distress their administration, thwart their measures, and render them odious to the people.

Besides these evils, Sir, tho' we may set out in the beginning with moderate salaries, we shall find that such will not be of long continuance. Reasons will never be wanting for proposed augmentations. And there will always be a party for giving more to the rulers, that the rulers may be able in return to give more to them.—Hence as all history informs us, there has been in every State & Kingdom a constant kind of warfare between the Governing & Governed: the one striving to obtain more for its support, and the other to pay less. And this has alone occasioned great convulsions, actual civil wars, ending either in dethroning of the Princes or enslaving of the people. Generally indeed the ruling power carries its point, the revenues of princes constantly increasing, and we see that they are never satisfied, but always in want of more. The more the people are discontented with the oppression of taxes; the greater need the prince has of money to distribute among his partisans and pay the troops that are to suppress all resistance, and enable him to plunder at pleasure. There is scarce a king in a hundred who would not, if he could, follow the example of Pharoah, get first all the peoples money, then all their lands, and then make them and their children servants forever. It will be said, that we don't propose to establish Kings. I know it. But there is a natural inclination in mankind to Kingly Government. It

sometimes relieves them from Aristocratic domination. They had rather have one tyrant than five hundred. It gives more of the appearance of equality among Citizens, and that they like. I am apprehensive therefore, perhaps too apprehensive, that the Government of these States, may in future times, end in a Monarchy. But this Catastrophe I think may be long delayed, if in our proposed system we do not sow the seeds of contention, faction & tumult, by making our posts of honor, places of profit. If we do, I fear that tho' we do employ at first a number, and not a single person, the number will in time be set aside, ["the" stricken out] it will only nourish the fœtus of a King, as the honorable gentleman from Virginia very aptly expressed it, and a King will the sooner be set over us.

It may be imagined by some that this is an Utopian Idea, and that we can never find men to serve us in the Executive department, without paying them well for their services. I conceive this to be a mistake. Some existing facts present themselves to me, which incline me to a contrary opinion. The high Sheriff of a County in England is an honorable office, but it is not a profitable one. It is rather expensive and therefore not sought for. But yet, it is executed and well executed, and usually by some of the principal Gentlemen of the County. In France the office ["r" stricken out] of Counsellor or Member of their Judiciary Parliaments is more honorable. It is therefore purchased at a high price: There are indeed fees on the law proceedings, which are divided among them, but these fees do not amount to more than three <sup>per Cent</sup> ["per Cent" stricken out] on the sum paid for the place. Therefore as legal interest is there at five per C! they in fact pay two per C! for being allowed to do the Judiciary



business of the Nation, which is at the same time entirely exempt from the burden of paying them any salaries for their services. I do not however mean to recommend this as an eligible mode for our Judiciary department. I only bring the instance to shew that the pleasure of doing good & serving their Country and the respect such conduct entitles them to, are sufficient motives with some minds to give up a great portion of their time to the Public, without the mean inducement of pecuniary satisfaction.

Another instance is that of a respectable Society who have made the experiment, and practiced it with success more than a hundred years. I mean the Quakers. It is an established rule with them, that they are not to go to law; but in their controversies they must apply to their monthly, quarterly and yearly meetings. Committees of these sit with patience to hear the parties, and spend much time in composing their differences. In doing this they are supported by a sense of duty, and the respect paid to usefulness. It is honorable to be so employed, but it was never made profitable by salaries, fees, or perquisites. And indeed in all cases of public service the less the profit the greater the honor.

To bring the matter nearer home, have we not seen the great and most important of our officers, that of General of our armies executed for eight years together without the smallest salary, by a Patriot whom I will not now offend by any other praise; and this through fatigues and distresses in common with the other brave men his military friends & companions, and the constant anxieties peculiar to his station? And shall we doubt finding three or four men in all the U. States, with public spirit enough to bear sitting in peaceful Council for perhaps an equal term, merely to preside



over our civil concerns, and see that our laws are duly executed. Sir, I have a better opinion of our country. I think we shall never be without a sufficient number of wise and good men to undertake and execute well and faithfully the Office in question.

Sir, The saving of the salaries that may at first be proposed is not an object with me. The subsequent mischiefs of proposing them are what I apprehend. And therefore it is that I move the amendment. If it is not seconded or accepted I must be contented with the satisfaction of having delivered my opinion frankly and done my duty.

The motion was seconded by Col. Hamilton with the view he said merely of bringing so respectable a <sup>proposition</sup> before the Committee, and which was besides <sup>enforced</sup> by arguments that had a certain degree of weight. No debate ensued, and the ["motion" stricken out] was postponed for the consideration of the members. It was treated with great respect, but rather ["from respect" stricken out] <sup>from</sup> for the author of it, than any apparent conviction of its expediency or practicability.

Mr Dickenson moved "that the Executive be made removable by the National Legislature on the request of a majority of the Legislatures of individual States". It was necessary he said to place the power of removing somewhere. He did not like the plan of impeaching the Great Officers of State. He did not know how provision could be made for removal of them in a better mode than that which he had proposed. He had no idea of abolishing the State Governments as some gentlemen seemed inclined to do. The happiness of this Country in his opinion required considerable power["s" stricken out] to be left in the hands of the States.

Mr Bedford seconded the motion.

Mr Sherman contended that the National Legislature should have power to remove the Executive at pleasure.

Mr Mason. Some mode of displacing an unfit magistrate is rendered indispensable by the fallibility of those who choose, as well as by the corruptibility of the man chosen. He opposed decidedly the making the Executive the mere creature of the Legislature as a violation of the fundamental principle of good Government.

Mr Madison & Mr Wilson observed that it would leave an equality of agency in the small with the great States; that it would enable a minority of the people to prevent ye removal of an officer who had rendered himself justly criminal in the eyes of a majority; that it would open a door for intrigues ag<sup>st</sup> him in States where his administration tho' just might be unpopular, and might tempt him to pay court to particular States whose [illegible words stricken out] <sup>leading partisans</sup> he might fear, or wish to engage as his partizans. They both thought it bad policy [illegible words stricken out] <sup>to introduce such a mixture</sup> of the State authorities, when their agency could be otherwise supplied.

Mr Dickenson considered the business as so important that no man ought to be silent or reserved. He went into a discourse of some length, the sum of which was, that the Legislative, Executive, & Judiciary departments ought to be made as independ<sup>t</sup> as possible; that such an Executive as some seemed to have in contemplation was not consistant with a republic; that a firm Executive could only exist in a limited monarchy. In the British Gov<sup>t</sup> itself the weight of the Executive arises from the attachments which the Crown draws to itself, <sup>&</sup> not merely from the force of its prerogatives. In place of these attachments we must look <sup>out</sup> for something else.

One source of stability [<sup>is</sup> "was" stricken out] the double branch of the Legislature. The division of the Country into distinct States formed the principal [<sup>other</sup> "other" stricken out] source of stability. This division ought therefore to be maintained, and considerable powers to be left with the States. This was the ground of his consolation for the future fate of his Country. Without this, and in case of a consolidation of the States into one great [<sup>Republic</sup> "nation," stricken out] we might read its fate in the history of smaller ones. A limited Monarchy he considered as one of the best Governments in the world. It was not certain that the same blessings were derivable from any other form. It was certain that equal blessings had never yet been derived from any of the republican form. A limited monarchy however was out of the question. [illegible word stricken out] The spirit of the times—the state of our affairs, forbade the experiment, if it were desirable. Was it possible moreover in the nature of things to introduce it even if these obstacles were less insuperable. A<sup>t</sup> House of Nobles was essential to such a Gov<sup>t</sup>. Could these be created by a breath, or by a ["pen" stricken out] a stroke of the pen? No. They were the growth of ages, and could only arise under a complication of circumstances none of which existed in this Country. But though a form the most perfect perhaps in itself be unattainable, we must not despair. If antient republics have been found to flourish for a moment only & then vanish forever, it only proves that they were badly constituted; and that we ought to seek for every remedy for their diseases. One of these remedies he conceived to be the accidental lucky division of this country into distinct States; a division which some seemed desirous to abolish altogether. As to the point of representation in the

national legislature as it might affect States of different sizes, he said it must probably end in mutual concession. He hoped that each State would retain an equal voice at least in one branch of the National Legislature, and supposed the sums paid within each state would form a better ratio for the other branch than either <sup>the</sup> number of inhabitants or the quantum of property

A motion, being made to strike out "on request by a majority of the Legislatures of the individual States" and rejected, Connecticut, S. Carol: & Geo. being ay, the rest no: the question was taken—

[<sup>On</sup> "On question On" stricken out] M<sup>r</sup> Dickenson's motion for making Executive removeable by Nat<sup>l</sup> Legislature at request of majority of State Legislatures, <sup>["which" stricken out]</sup> was also rejected <sup>being in the</sup> negative <sup>gave an</sup> all the States, [<sup>the</sup> "viz" stricken out] except Delaware which [<sup>gave an</sup> "was ay. was in the" stricken out] affirmative vote.

<sup>["next taken" stricken out]</sup> The Question for making <sup>next</sup> ye. Executive ineligible after seven years, was <sup>next</sup> taken, and [<sup>which</sup> "which" stricken out], agreed to:

Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N Y—ay P<sup>a</sup> div<sup>d</sup> Del. ay. Mary<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no:\*

Mr. Williamson <sup>2d</sup>ed, by Mr. Davie moved to add to the last Clause, <sup>the words</sup> ["as to Executive" stricken out]—"and to be removeable on impeachment & conviction of mal-practice or neglect of duty"—which was agreed to.

Mr. Rutledge & M<sup>r</sup> C. Pinkney moved that the blank for the n<sup>o</sup> of persons in the Executive be filled with the words "one person". He supposed the reasons to be so obvious & conclusive in favor of one that no member would oppose the motion.

M<sup>r</sup> Randolph opposed it with great earnestness, declaring that he should not do justice to the Country which sent him if he were silently to [<sup>the</sup> "acquiesce" stricken out] suffer the establishm<sup>t</sup> of a Unity in the Executive department. He felt an opposition to it which he believed he should continue to feel as long as he lived. He urged 1. that the permanent temper of the people was adverse to the very semblance of

\* in printed Journal Geo: ay.

Monarchy. 2. that a unity was unnecessary a plurality being equally competent to all the objects of the department. 3. that the necessary confidence would never be reposed in a single Magistrate. 4. that the appointments would generally be in favor of some inhabitant near the center of the Community, and consequently the remote parts would not be on an equal footing.

He was in favor of three members of the Executive to be drawn from different portions of the Country.

Mr Butler contended strongly for a single magistrate as most likely to answer the purpose of the remote parts. If one man should be appointed he would be responsible to the whole, and would be impartial to its interests. If three or more should be taken from as many districts, there would be a constant struggle for local advantages. In Military matters ["this" stricken out]<sup>this</sup> would be particularly mischievous. He said his opinion on this point had been formed under the opportunity he had had of seeing the manner in which a plurality of military heads distracted Holland when threatened with invasion by the imperial troops. One man was <sup>for</sup> directing the force to the defence of this part, another to that part of the Country, just as he happened to be swayed by prejudice or interest.

The motion was then ["The question" stricken out] the Committee rose postp<sup>d</sup> & the House Adj<sup>d</sup>

Monday June 4. In Committee of the whole.

was The Question on motion of Mr. Pinkney 2d<sup>d</sup>, by Wilson resumed "shall the blank for the number of the ["no of" <sup>^</sup> stricken out] Executive be filled with ["one" "a single" <sup>^</sup> stricken out] person"? ^

Mr Wilson was in favor of the motion. It had been opposed by the gentleman from Virg<sup>a</sup> [Mr Randolph] but <sup>the</sup> arguments used had not convinced him. He observed that the objec-

tions of M<sup>r</sup> R. were levelled not so much ag<sup>st</sup> the measure itself, [<sup>as</sup> "as a" stricken out] ag<sup>st</sup> its unpopularity. If he could suppose that it would occasion a rejection of the plan of which it should form a part, [<sup>["tho' it formed" stricken out]</sup> "however important the part an important part in his judgment" stricken out]; though the part was an important one, yet he would give it up rather than lose the whole. On examination he could see no evidence of the alleged [<sup>antipathy of the people</sup> "enmity to a single" stricken out]. On the contrary he [<sup>was</sup> "is" stricken out] persuaded that it does not exist. All know that a single magistrate is not a King. one fact has great weight with him. ["In" stricken out] All the 13 States tho' agreeing in [<sup>a</sup> "a" stricken out] scarce any other instance, agree in placing a single magistrate at the head of the Govern<sup>t</sup>. The idea of three heads has taken place in none. The degree of power is indeed different; but there are no co-ordinate heads. In addition to his former reasons for preferring a Unity, he would mention another. The tranquility not less than the vigor of the Gov<sup>t</sup> he thought would be favored by it. Among three equal members, he foresaw nothing but uncontrouled, continued, & violent animosities; which would not only interrupt the public administration; but diffuse their poison thro' the other branches of Gov<sup>t</sup>, thro' the States, and at length thro' the people at large. If the members [<sup>of the E</sup> "of the E" stricken out] were to be unequal in power the principle of the opposition to the Unity was given up. If equal, the making them an odd number would not be a remedy. In Courts of Justice there are two sides only to a question. In the Legislative & Executive departm<sup>ts</sup> questions have commonly many sides. Each member therefore ["would have" stricken out] might espouse a separate one & no two agree.



Mr Sherman. This matter is of great importance and ought to be well considered before it is determined. Mr Wilson he said had observed that in each State a single magistrate was placed at the head of the Gov<sup>t</sup>. It was so he admitted, and properly so, and he wished the same policy to prevail in the federal Gov<sup>t</sup>. But then it should be also remarked <sup>that</sup> in all the States there was a Council of advice, without which the first magistrate could not act. A Council he thought necessary to make the establishment acceptable to the people. Even in G. B. the King has a council; and though he appoints it himself, its advice has its weight with him, and attracts the Confidence of the people.

Mr Williamson asks Mr Wilson whether he means to annex a Council.

Mr Wilson means <sup>to have</sup> no Council, which oftener serves to <sup>cover, than</sup> ["cover than" stricken out] prevent malpractices.

Mr G["h" stricken out]erry. was at a loss to discover the policy of three members for the Executive. It w<sup>d</sup> be extremely inconvenient in many instances, particularly in military matters, whether relating to the militia, an army, or ["a" written upon "the"] navy. It would be a general with three heads.

On the question for a single Executive <sup>it was agreed to</sup> Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. Pen<sup>a</sup> ay. Del. no. Mary<sup>d</sup> no. Virg. ay. [Mr R & Mr Blair no—Doc<sup>r</sup> M<sup>c</sup>C<sup>g</sup> Mr M. & Gen W. ay. Col. Mason being no, but not in house, Mr Wythe ay but gone home]. N. C. ay. S. C. ay. Georg<sup>a</sup> ay.

<sup>of Proposition 8<sup>th</sup></sup>  
First Clause relating to a Council of Revision taken into consideration.

Mr G["h" stricken out]erry doubts whether the Judiciary ought to form a part of it, as they will have a sufficient check ag<sup>st</sup> encroachments on their own department by their exposi-



tion of the laws, which involved a power of deciding on their Constitutionality. In some States the["y" stricken out] Judges had <sup>actually</sup> set aside laws as being ag<sup>t</sup> the Constitution. This was done too with general approbation. It was quite foreign from the nature of <sup>ye.</sup> office to make them judges of the policy of public measures. ["In place of the" stricken out] <sup>He moves to postpone</sup> clause to propose "that the National Executive ["ought to" stricken out] <sup>in order</sup> have a right to negative any Legislative act ["that" stricken out] <sup>shall</sup> shall not be afterwards passed by <sup>which</sup> parts of each branch of the national Legislature.

M<sup>r</sup> King seconds the motion, observing that the Judges ought to be able to expound the law as it should come before them, free from the bias of having participated in its formation.

M<sup>r</sup> Wilson thinks neither the original proposition nor the amendments go far enough. If the Legislative Ex<sup>ec</sup>iv & Judiciary ought to be distinct & independent, The Executive ought to have an absolute negative. Without such a Self-defence the Legislature can at any moment sink it into non-existence. He was for varying the proposition in such a manner as to give the Executive & Judiciary jointly an absolute negative

On the question to postpone in order to take M<sup>r</sup> G["h" stricken out]erry's proposition into consideration <sup>it was agreed to</sup> Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. ay. P<sup>a</sup> ay. Del. no. Mary<sup>d</sup> no. Virg<sup>a</sup> no. N. C. ay. S. C. ay. G<sup>a</sup> ay.

M<sup>r</sup> G["h" stricken out]erry's proposition being now before Committee, M<sup>r</sup> Wilson & M<sup>r</sup> Hamilton move that the last [viz] w<sup>h</sup> sh. not be afterw<sup>d</sup> passed" <sup>unless</sup> "but" stricken out] by <sup>parts of each branch of the</sup> part of it be struck out, so as to ["the" stricken out] give the <sup>National legislature]</sup> Executive an absolute negative on the laws. There was no danger they thought of such a power being too much exercised. It was mentioned <sup>by Col<sup>d</sup> Hamilton]</sup> ["by one of them" stricken out] <sup>by Col<sup>d</sup> Hamilton]</sup> "if there was no mistake" stricken out] that the King of G. B. had not exerted his negative since the Revolution

Mr G["h" stricken out]erry sees no necessity for so great a controul over the legislature as the best men in the Community would be comprised in the two branches of it.

Doc<sup>r</sup> Franklin, said he was sorry to differ from his colleague for whom he had a very great respect, on any occasion, but he could not help it on this. He had had some experience of this check in the Executive on the Legislature, under the proprietary Government of Pen<sup>a</sup>. The negative of the Governor was constantly made use of to extort money. No good law whatever could be passed without a private bargain with him. An increase of his salary, or some donation, was always made a condition; till at last it became the regular practice, to have orders in his favor on the Treasury, presented along with the bills to be signed, so that he might actually receive the former before he should sign the latter. When the Indians were scalping the western people, and notice of it arrived, the concurrence of the Governor in the ["necessa" stricken out] means of self-defence could not be got, till it was agreed that his Estate should be exempted from taxation. so that the people were to fight for the security of his property, whilst he was to bear no share of the burden. This was a mischievous sort of check. If the Executive were to have a Council, such a power would be less objectionable. It was true the King of G. B. had not, As was said, exerted his negative since the Revolution: but that matter was easily explained. The to the members of parliament bribes and emoluments now given rendered it unnecessary, every thing being done according to the will of the Ministers. He was afraid, ["that" stricken out] if a negative should be given as proposed, that more power and money would be demanded, till at last eno' would be gotten to influence & bribe the Legislature["into" stricken out] into a compleat subjection to the will of the Executive.

Mr Sherman was ag<sup>t</sup> enabling any one man to stop the will of the whole. No one man could be found so far above all the rest in wisdom. He thought we ought to avail ourselves of his wisdom in revising the laws, but not permit him to overrule the decided and cool opinions of the Legislature.

Mr Madison supposed that if a proper proportion of each branch should be required to overrule the objections of the Executive, it would answer the same purpose as an absolute <sup>constituted as ours is proposed to be</sup> negative. It would rarely if ever happen that the Executive, would, have firmness eno' to resist the Legislature, unless <sup>["or actuated by some foreign support ag<sup>t</sup>, his own Country"]</sup> backed by a certain part of the body itself. The King of G. B. with all his splendid attributes would not be able to withstand y<sup>e</sup> unanimous and <sup>eager</sup> wishes of both houses of Parliament. To give such a prerogative would certainly be <sup>temper of this country: it] present temper at least.</sup> obnoxious to the [illegible words stricken out]

Mr Wilson believed as others did that this power would seldom be used. The Legislature would know that such a power existed, and would refrain from such laws, as it would be sure to defeat. Its silent operation would therefore preserve harmony and prevent mischief. The case of Pen<sup>a</sup> <sup>formerly</sup> was very different from its present case. The Executive [<sup>then</sup> "then" <sup>to be</sup> stricken out] was not as now appointed by the people. It will not in this case as in the one cited be supported by the head of a Great Empire, actuated by a different & sometimes opposite interest. The salary too is now proposed to be fixed by the Constitution, or if Dr F's idea should be adopted all salary whatever interdicted. The requiring a large proportion of each House to overrule the Executive check might do in peaceable times; but there might be tempestuous moments in which animosties may run high between the Executive and Legislative branches, and in which the former ought to be able to defend itself.

Mr Butler had been in favor of a single Executive Magistrate; but could he have entertained an idea that a complete negative on the laws was to ["have" stricken out] be["en" stricken out] given him he certainly should have acted very differently. It had been observed that in all countries the Executive power is in a constant course of increase. This was certainly the case in G. B. Gentlemen seemed to think that we had nothing to apprehend from ["such" illegible word stricken out] an abuse of the Executive power. But why might not a Cataline or a Cromwell arise in this Country as well as in others.

Mr Bedford was opposed to every check on the Legislative, even the Council of Revision first proposed. He thought it would be sufficient to mark out in the Constitution the boundaries to the Legislative Authority, which would give all the requisite security to the rights of the other departments. The Representatives of the People were the best judges of what was for their interest, and ought to be under no <sup>external</sup> controul whatever. The two branches would ["render" stricken out] produces a sufficient controul within <sup>the Legislature itself</sup> ["themselves" stricken out].

[Illegible words stricken out.]

Col. Mason observed that a vote had already passed he found [he was out at the time] for vesting the executive powers in a single person. Among these powers was that of appointing to offices in certain cases. The probable abuses of ["this" illegible word stricken out] a negative had been well explained by Dr F. as proved by experience, the best of all tests. Will not the same door be opened here. The Executive may refuse its assent to necessary measures till new

appointments shall be referred to him; and having by degrees engrossed <sup>all</sup> these into his own hands, the American Executive, like the British, will by bribery & influence, save himself the trouble & odium of exerting his negative afterwards. We are M<sup>r</sup> Chairman going very far in this business. We are not indeed constituting a British Government, but a more dangerous monarchy, an elective one. We are introducing a new principle into our system, and not necessary as in the British Gov<sup>t</sup> where the Executive has greater rights to defend. Do gentlemen mean to pave the way to hereditary Monarchy? Do they flatter themselves that the people will ever consent to such an innovation? If they do I venture to tell them, they are mistaken. The people never will consent. And do gentlemen consider the danger of delay, and the still greater danger of a ["final" stricken out] a rejection not for a moment but forever ["of" stricken out], of the plan which shall be proposed to them. Notwithstanding the oppressions & injustice experienced among us from democracy; the genius of the people [<sup>is</sup> "was" stricken out] in favor of it, and the genius of the people must be consulted. He could not but consider the federal system as in effect dissolved by the appointment of this Convention to devise a better one. And do gentlemen look forward to the dangerous interval between the extinction of an old, and the establishment of a new Govern<sup>t</sup> and to the scenes of confusion which may ensue. He hoped that nothing like a monarchy would ever be attempted in this Country. A hatred to its oppressions had carried the people through the late Revolution. Will it not be eno' to enable the Executive to suspend offensive laws, till they shall be coolly revised, and overruled by a greater <sup>the objections to them</sup>

majority than was required in the first instance. He never could agree to give up all the rights of the people to [<sup>a single</sup> "one Execu" stricken out] Magistrate. If more than one had been fixed on, greater powers might have been entrusted [<sup>to the Executive</sup> "to him" stricken out]. He hoped this attempt to give [<sup>as an argument</sup> "him" stricken out] such powers would have its weight hereafter for increasing the number of the Executive.

Doc<sup>t</sup> Franklin. A Gentleman from S. C. [M<sup>r</sup> Butler] a day or two <sup>ago</sup> called our attention to the case of the U. Netherlands. He wished the gentleman had been a little fuller, and had gone <sup>back</sup> to the original of that Gov<sup>t</sup>. The people being under great obligations to the Prince of Orange whose wisdom and bravery had saved them, chose him for the Stadtholder. He did very well. Inconveniences however were felt from his <sup>which growing more & more oppressive, they</sup> ["office" stricken out] ["was" written upon powers; - ["and the States [illegible words] of appointing "were"'] <sup>"were"'] at length set aside. office themselves" stricken out]. Still however there was a party for the P. of Orange, which descended to his son who excited insurrections, spilt a great deal of blood, murdered the de Witts, and got the powers revested in the Stadtholder. Afterwards another Prince had power to excite insurrections & to make the Stadtholdership hereditary. And the present Stadth<sup>der</sup> is ready to wade thro' ["seas" stricken out] a bloody civil war to the establishment of a monarchy. Col. Mason had mentioned the circumstance of appointing officers. He knew how that <sup>point</sup> would be managed. No new appointment would be suffered as heretofore in Pens<sup>a</sup> unless it be referred to the Executive; so that all profitable offices will be at his disposal. The first man, <sup>put at the helm will be</sup> [illegible word stricken out] a good one. No body knows what sort may come afterwards. The Executive will be always increasing here, as elsewhere, till it ends in a monarchy</sup>



On the question for striking out so as to give Executive an absolute Negative—

Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no. Pa<sup>a</sup> no. Dl. no. M<sup>d</sup> no. Va<sup>a</sup> no.  
N. C. no. S. C. no. Georg<sup>a</sup> no.

M<sup>r</sup> Butler moved that [<sup>the Resol<sup>n</sup>. be altered so as to read—"Resolved that</sup> "the Executive should be authorized to suspend, instead of negating legislative acts." <sup>the National Executive have a power to suspend any legislative act for the term of</sup> stricken out]

Doct<sup>r</sup> Franklin seconds the motion.

M<sup>r</sup> G["h" stricken out]erry observed that a power of suspending might do all the mischief dreaded from the negative; without answering the salutary purpose of checking <sup>of useful laws</sup> unjust or unwise ones.

On question "for giving this suspending power", all the States, to wit Mass<sup>ts</sup> Con<sup>t</sup> N. Y. Pa<sup>a</sup> Del. Mary<sup>d</sup> Virg<sup>a</sup> N. C. S. C. Georgia. were no.

On ["the"<sup>a</sup> stricken out] question for enabling two thirds of each branch of the Legislature to overrule the revisionary check: ["all the States" stricken out] it passed in the affirmative <sup>of Mr. Gerry's motion.</sup> sub silentio; and was inserted in the blank

On the question of M<sup>r</sup> G["h" stricken out]erry's motion which gave the Executive alone without the Judiciary the <sup>unless overruled by 2 of each branch.</sup> revisionary controul on the laws; Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. ay. Pen<sup>a</sup> ay. Del. ay. Mary<sup>d</sup> no. Va<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

[“Clause—"That a national Judiciary be established" passed nem. con." stricken out]

It was moved by M<sup>r</sup> Wilson 2<sup>d</sup> <sup>Madison</sup> by M<sup>r</sup> — that the following amendment be made to the last resolution—after the words "National Ex." to add "& a convenient number of the National Judiciary."

["Tuesday" stricken out] An Objection of order being



taken by M<sup>r</sup> Hamilton to the introduction of the last amendment at this time, notice was given by M<sup>r</sup> W. & M<sup>r</sup> M—that the same w<sup>d</sup> be moved tomorrow.—[“on which” <sup>whereupon</sup> stricken out], Wednesday (the day after) was assigned to reconsider the [“question” stricken out] amendment of M<sup>r</sup> Gerry.

It was then moved & 2<sup>d</sup> to proceed to the consideration of the 9<sup>th</sup> resolution submitted by M<sup>r</sup> Randolph—when on motion to agree to the first clause namely “Resolved that a National Judiciary be established” It passed in the Affirmative nem. con.

It was then moved and 2<sup>d</sup> to add these words to the first clause of the ninth resolution namely—“to consist of one supreme tribunal, and of one or more inferior tribunals”. which passed in the affirmative—

The Comm<sup>e</sup> [“Rose & adj<sup>d</sup>” stricken out] then rose and the House

Adjourned.

#### Tuesday June 5. In Committee of the whole

Governor Livingston from New Jersey took his seat.

The words, “one or more” <sup>were</sup> [“inferior” stricken out] struck out before “inferior tribunals” as an amendment to the last clause of Resol<sup>n</sup>, 9<sup>th</sup>.

The Clause—“that the national Judiciary be <sup>chosen</sup> [“appointed” stricken out] by the National Legislature”, <sup>being</sup> under consideration.

M<sup>r</sup> Wilson opposed the appointm<sup>t</sup> <sup>of Judges, by the</sup> [“by” stricken out] national Legislat: Experience shewed the impropriety of such appointm<sup>t</sup> by numerous bodies. Intrigue, partiality, and concealment were the necessary consequences. A principal reason for unity in the Executive was that officers might be appointed by a single, responsible person. [“The Examples in the States are in favor”. stricken out].

Mr Rutledge was by no means disposed to grant so great a power to ["the" stricken out] any single person. The people will think we are leaning too much towards Monarchy. He was against establishing any national tribunal except ["one" stricken out] a single supreme one. The State Tribunals<sup>are most proper</sup> to decide in all cases in the first instance.

Doc<sup>r</sup> Franklin observed that two modes of choosing the Judges had been mentioned, to wit, by the Legislature and by the Executive. He wished other modes to be suggested as ["is" stricken out] might occur to other ["other" stricken out] gentlemen; it being a point of great moment. ["One" stricken out] He would mention <sup>one</sup> ["ed" stricken out] <sup>which</sup> he had understood was practiced in Scotland. He then in a brief and entertaining manner related a ["the" stricken out] Scotch mode, in which the nomination proceeded from the Lawyers, who always selected the ablest of the profession in order to get rid of him, and share his practice <sup>among themselves</sup>. It was here he said the interest of the electors to make the best choice, which <sup>should</sup> always be made the case if possible.

Mr Madison disliked the election of the Judges by the Legislature or any numerous body. Besides, the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. The Legislative talents which were very different from those of a Judge, commonly recommended men to the favor of Legislative Assemblies. It was known too that the accidental circumstances of presence and absence, of being a member or not a member, ["of the body at the time of election had a very undue" stricken out] <sup>had a very undue</sup> influence on the appointment. <sup>On the other hand</sup> He was ["illegible word stricken out"] not satisfied with referring the <sup>appointment</sup> ["election" stricken out] to the Executive. He rather inclined to give it to the Senatorial branch, as

numerous eno' to be confided in—as not so numerous as to be governed by the motives of the other branch; and as being sufficiently stable [~~“and cool”~~ <sup>stricken out</sup>] and independent to follow their [~~illegible word~~ <sup>deliberate</sup> ~~stricken out~~] judgments. [~~“only”~~ <sup>stricken out</sup>] He hinted this only and moved that the appointment by the Legislature might <sup>be</sup> struck out, & and a blank left to be hereafter filled on maturer reflection. Mr Wilson seconds it. On the question for striking out. Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. ay. N. J. ay. Pen<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay.

[~~“Note E”~~ <sup>stricken out</sup>]

[These five paragraphs were written upon a slip of paper attached just before the paragraph beginning: “The 11. propos:”.]

Mr. Wilson gave notice that he should at a future day move for a reconsideration of that clause which respects “inferior tribunals”

Mr. Pinkney gave notice that when the clause respecting the appointment of the Judiciary should again come before the Committee, he should move to restore the “appointment by the national Legislature”

The following clauses of Resol: 9. were agreed to viz “to hold their offices during good behaviour, and to receive punctually at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution.”

The remaining clause of Resolution 9. was postponed.

Resolution 10 was agreed to—viz—that provision ought to be made for the admission of States lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & territory, or otherwise with the consent of a number of voices in the National Legislature less than the whole.

The 11. propos: [~~“Clause”~~ <sup>stricken out</sup>] “for guarantying to States  
<sup>Republican Gov<sup>t</sup> & territory &c, being read,</sup>  
[~~“their Constitutions & laws”~~ <sup>stricken out</sup>]” Mr Patterson

wished the point of representation could be decided before this clause should be considered, and moved to postpone it: which was not. opposed, and agreed to: Connecticut & S. Carolina <sup>only</sup> voting ag<sup>t</sup>, it.

propos. 12 [~~“Clause”~~ <sup>stricken out</sup>] “for continuing Cong<sup>s</sup> till a  
<sup>produced no debate</sup>  
given day and for fulfilling their engagements”. [~~“No debate”~~ <sup>stricken out</sup>]

[~~“which was taken”~~ <sup>stricken out</sup>]

On the question, Mass. ay. Con<sup>t</sup> no. N. Y. ay. N. J.\* ay. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. G. ay.

[~~“Resolution”~~ <sup>stricken out</sup>]

propos. 13. [~~“Clause”~~ <sup>stricken out</sup>] “that provision ought to be  
<sup>hereafter</sup>  
made for amending the [~~“articles of a”~~ <sup>stricken out</sup>] system  
now to be established, without requiring the assent of the  
Nat<sup>l</sup> Legislature”. being taken up.

\* New Jersey omitted in the Printed Journal

Mr Pinkney doubted the propriety or necessity of it.

Mr Gerry favored it. The novelty & difficulty of the experiment requires periodical revision. The prospect of such a revision would also give intermediate stability to the Gov<sup>t</sup>. Nothing had yet happened in the States <sup>where</sup> this <sup>Proposition</sup> provision existed to prove its impropriety.—The [“clause” stricken out] was postponed [“nem con.” stricken out] for further consideration: the votes being, Mas: Con, N. Y. Pa. Del. Ma. N. C.—ay Virg. S. C. Geo: no propos. 14. [“Clause” stricken out] “requiring oath from the State officers to support national Gov<sup>t</sup>” was postponed after a short an interesting conversation; the votes, Con. N. Jersey. Md. Virg. S. C. Geo. ay N. Y. Pa. Del. N. C. . . . no Massachusetts . . . divided propos. 15. [“Clause” stricken out] for “recommending <sup>of the people</sup> conventions under appointment to ratify the new Constitution &c”. being taken up.

Mr Sherman thought such a popular ratification unnecessary. the articles of Confederation providing for changes and alterations with the assent of Cong<sup>s</sup> and ratification of State Legislatures.

Mr Madison thought this provision essential. The articles of Confed<sup>n</sup> themselves were defective in this respect, resting in many of the States on the Legislative sanction only. Hence in conflicts between acts of the States, and of Cong<sup>s</sup> especially where the former <sup>are</sup> [“were” stricken out] of posterior date, and the decision to be made by State Tribunals, <sup>is</sup> <sup>an</sup> uncertainty must necessarily prevail, [“if not” stricken out] <sup>or rather perhaps</sup> a certain decision in favor of the State authority. He suggested also that as far as the articles of Union were to be considered <sup>as</sup> <sup>only</sup> a Treaty of a particular sort, [“among inde under” <sup>among</sup> stricken out] the Governments of Independent States, the doctrine might be set up that a breach of any one article, by any of the parties, absolved the other parties from [“its” <sup>the whole</sup> stricken out]

stricken out] obligation. For these [illegible word stricken  
reasons as well as others out] he thought it indispensable that the new Constitution  
 should be ratified in the most unexceptionable form, and by  
 the <sup>supreme</sup> authority of the people themselves.

M<sup>r</sup> Gerry. Observed that in the Eastern States the Confed<sup>n</sup> had been ["ratified" stricken out] <sup>sanctioned</sup> by the people  
 themselves. He seemed afraid of referring the new system  
 to them. The people in that quarter have <sup>at this time</sup> the wildest ideas  
 of Government in the world. They were for abolishing the  
 Senate in Mass<sup>ts</sup> and giving <sup>all the other powers of</sup> ["absolute power to the other"  
 stricken out] Gov<sup>t</sup> to the other branch of the Legislature.

M<sup>r</sup> King supposed the last art<sup>icle</sup> of <sup>ye</sup> Confed<sup>n</sup> Rendered the  
 legislature competent to the ratification. The people of the  
 Southern States where the federal articles had been ratified by  
 the Legislatures only, had since impliedly given their sanc-  
 tion to it. He thought notwithstanding that there might be  
 policy in varying the mode. ["The"<sup>A</sup> stricken out] Con-  
 vention being a single house, the adoption may more easily  
 be carried thro' it. than thro' the Legislatures where there are  
 several branches. The Legislatures also being to lose power,  
 will be most likely to ["raise" stricken out] raise objections.  
The people having already parted with their <sup>necessary</sup> powers it is immaterial to them, by which Govern-  
 ment they are possessed, provided they be well employed.

M<sup>r</sup> Wilson took this occasion to lead the Committee by a  
 train of observations to the idea of not suffering a disposition  
 in the plurality of States to confederate <sup>anew</sup> [illegible word  
 stricken out] on better principles, to be defeated by the incon-  
 siderate or selfish opposition of a few <sup>States</sup>. He hoped the provi-  
 sion for ratifying would be put on such a footing as to admit  
 of such a partial union, with a door open for the accession of  
 the rest.—\* [This hint was probably meant in terrorem to

in brackets  
 \*the note, to be transferred to the bottom margin



the smaller States of N. Jersey & Delaware. Nothing was said in reply to it.]

Mr Pinkney hoped that in case the experiment should not <sup>take place</sup> unanimously ["succeed that" stricken out] nine States might be authorized to unite under the same Government

The ["clause" <sup>propos. 15.</sup> stricken out] was postponed nem. cont:

Mr. Pinkney & Mr Rutledge moved that tomorrow be assigned to reconsider that clause of *Propos. 4*; which respects the elections of the first branch of the National Legislature—which passed in affirmative: Con: N. Y. P<sup>4</sup>, Del: M<sup>d</sup>, Va. ay—6 Mas. N. J. N. C. S. C. Geo. no. 5

Mr Rutledge hav<sup>g</sup> obtained a rule for reconsideration of the clause for establishing inferior tribunals under the national authority, now moved that that part of the clause <sup>in propos. 9.</sup> should be expunged: arguing that the State Tribunals might and ought the right of appeal to the supreme national tribunal being sufficient to secure the national rights to be left in all cases to decide in the first instance: that it & uniformity of Judgm<sup>ts</sup>. was making an unnecessary encroachment on the ["ir" <sup>of the States,</sup> stricken out] jurisdiction and creating unnecessary obstacles to their adoption of the new system.—Mr. Sherman 2<sup>d</sup>ed. the motion.

Mr Madison observed that unless inferior tribunals were dispersed throughout the Republic with final jurisdiction in many cases, appeals would be multiplied to a most oppressive degree; that besides, an appeal would not in many cases be a remedy. What was to be done after improper Verdicts in <sup>State tribunals</sup> ["state tribunals" stricken out] obtained under the biased directions of a dependent Judge, or the local prejudices of an undirected jury? To remand the cause for a new trial would answer no purpose. To order a new trial at the supreme bar would oblige the parties to bring up their witnesses, tho' ever so distant from the seat of the Court. An effective Judiciary establishment commensurate to the legislative authority, was essential. A Government without a proper Executive & Judiciary would be the mere trunk of a body without arms or legs to act or move.

M<sup>r</sup> Wilson [<sup>opposed</sup> "opposed" stricken out] the motion on like grounds. he said the admiralty jurisdiction ought to be given wholly to the national Government, as it related to cases not within the jurisdiction of particular states, & to a scene in which controversies with foreigners would be most likely to happen.

[<sup>Mr. Sherman</sup> "M<sup>r</sup> Sherman" stricken out]. was in favor of the motion. He dwelt chiefly on the supposed expensiveness of having a new set of Courts, when the existing State Courts [<sup>would answer</sup> "might be used for" stricken out] the same purpose.

M<sup>r</sup> Dickinson contended strongly that if there was to be a National Legislature, there ought to be a national Judiciary, and that the [<sup>former</sup> illegible word stricken out] ought to have authority to institute the latter.

On the question for M<sup>r</sup> Rutledge's motion to strike out "inferior tribunals"

Mass<sup>ts</sup> divided, Con<sup>t</sup> ay. N. Y. div<sup>d</sup> N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo ay

M<sup>r</sup> Wilson & M<sup>r</sup> Madison <sup>then</sup> moved, in pursuance of the idea expressed above by M<sup>r</sup> Dickinson, to add to Resol: 9. the words following "that the National Legislature be empowered to institute inferior tribunals". They observed that there was a distinction between [<sup>establishing</sup> illegible word stricken out] such tribunals absolutely, and giving a discretion to the Legislature to establish or not establish them. They repeated the necessity of some such provision.

M<sup>r</sup> Butler. The people will not bear such innovations. The States will revolt at such encroachments. Supposing such an establishment to be useful, we must not venture on it. We must follow the example of Solon who gave the Athenians not the best Gov<sup>t</sup> he could devise; but the best they w<sup>d</sup> receive.



Mr King remarked as to the comparative expence that the establishment of inferior tribunals w<sup>d</sup> cost infinitely less than the appeals that would be prevented by them.

On this question as moved by Mr W. & Mr M.

Mass. ay. C<sup>t</sup> no. N. Y. div<sup>d</sup> N. J.\* ay. Pa ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay.

The Committee then rose & the House adjourned to 11 OC. tom<sup>w</sup>

Wednesday June 6<sup>th</sup> In Committee of the whole

Mr Pinkney according to previous notice & rule obtained, moved "that the first branch of the national Legislature be elected by the State Legislatures, and not by the people". contending that the people were less fit Judges <sup>in such a case,</sup> and that the Legislatures would be less likely to promote the adoption of the new Government, if they were to be excluded from all share in it.

Mr Rutledge 2<sup>d</sup><sup>ed</sup> the motion.

Mr Gerry. Much depends on the mode of election. In England, the people will probably lose their liberty from the smallness of the proportion having a right of suffrage. Our danger arises from the opposite extreme: hence in Mass<sup>ts</sup> the worst men get into the Legislature. Several members of that Body had lately been convicted of infamous crimes. Men of [<sup>indigence,</sup> "indigence" stricken out], ignorance & baseness, spare no pains however dirty to carry their point ag<sup>st</sup> men who are superior to the artifices practiced. He was not disposed to run into extremes. He was as much principled as ever ag<sup>st</sup> aristocracy and monarchy. It was necessary on the one hand

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\* In the printed Journal N. Jersey—no.

that the people should appoint one branch of the Gov<sup>t</sup> in order to inspire them with the necessary confidence. But ["t" stricken out] he wished the election on the other to be so modified as to [<sup>secure</sup>"bring" stricken out] more effectually a just preference of merit. His idea was that the people should nominate certain persons in certain districts, out of whom the State Legislatures sh<sup>d</sup> make the appointment.

M<sup>r</sup> Wilson. He wished for vigor in the Gov<sup>t</sup> but he wished that vigorous authority to flow immediately from the legitimate source of all authority. The Gov<sup>t</sup> [<sup>ought</sup>"ought to" stricken out] to possess not only 1<sup>st</sup> the force but 2<sup>ndly</sup> the mind or sense of the people at large. The Legislature ought to be the most exact transcript of the whole Society. Representation is made necessary only because it is impossible for the people to act collectively. The opposition was to be [<sup>expected</sup>"expected" stricken out] he said from the Governments, not from the Citizens of the States. The latter had parted as was observed [by M<sup>r</sup> King] with all the necessary powers; and it was immaterial to them, by whom they were exercised, if well exercised. The State officers were to be losers of power. The people he supposed would be rather more attached to the national Gov<sup>t</sup> than to the State Gov<sup>ts</sup> as being more important in itself, and more flattering to their pride. There is no danger of improper elections if made by large districts. Bad elections proceed from the smallness of the districts which give an opportunity to bad men to intrigue themselves into office.

M<sup>r</sup> Sherman. If it were in view to abolish the State Gov<sup>ts</sup> the elections ought to be by the people. If the State Gov<sup>ts</sup> are to be continued, it is necessary in order to preserve harmony between the national & State Gov<sup>ts</sup> that the elections

to the former sh<sup>d</sup> be made by the latter. The right of participating [<sup>in the</sup> illegible words stricken out] National Gov<sup>t</sup> would be sufficiently secured to the people by their election of the State Legislatures. The objects of the Union, he thought were few. 1. defence ag<sup>st</sup> foreign danger. 2 ag<sup>st</sup> internal disputes & a resort to force. [<sup>3. Treaties</sup> "3 Treaties" stricken out] with foreign nations 4 regulating ["of" stricken out] foreign commerce, & drawing revenue from it. These & perhaps a few lesser objects alone rendered a Confederation of the States necessary. All other matters civil & criminal would be much better in the hands of the States. The people are more happy in small than large States. States may indeed be too small as Rhode Island, & thereby be too subject to faction. Some others were perhaps too large, the ["power"<sup>powers</sup> stricken out] of Gov<sup>t</sup> not being able to pervade them. He was for giving the General Gov<sup>t</sup> power to legislate and execute within a defined province.

Col. Mason. Under the existing Confederacy, Cong<sup>s</sup> represent the States not the people of the States: their acts operate on the States not on the individuals. The case will be [<sup>changed</sup> illegible word stricken out] in the new plan of Gov<sup>t</sup>. The people will be represented; they ought therefore to choose the Representatives. The requisites in actual representation are that the Rep<sup>s</sup> should sympathize with their constituents; sh<sup>d</sup> think as they think, & feel as they feel; and that for these purposes sh<sup>d</sup> even be residents among them. ["Much" stricken out] Much he s<sup>d</sup> had been alleged ag<sup>st</sup> democratic elections. He admitted that much might be said; but it was to be considered that no Gov<sup>t</sup> was free from imperfections & evils; and that improper elections [<sup>in</sup> "were" stricken out] many instances, were inseparable from Repub-

lican Gov<sup>ts</sup>. But compare these with the advantage of this Form in favor of the rights of the people, in favor of human nature. He was persuaded there was a better chance for proper elections by the people, if divided into large districts, than by the State Legislatures. Paper money had been issued by the latter when the former were against it. Was it to be supposed that the State Legislatures then w<sup>d</sup> not send to the Nat<sup>l</sup> legislature patrons of such projects, if the choice depended on them.

M<sup>r</sup> Madison considered an election of one branch <sup>at least</sup> of the Legislature ["at least" stricken out] by the people immediately, as a clear principle of free Gov<sup>t</sup> and that this mode under proper regulations had the additional advantage of securing better representatives, as well as <sup>of</sup> avoiding too great an agency of the State Governments in the General one.—He differed from the member from Connecticut [M<sup>r</sup> Sherman] in thinking the objects mentioned to be all the principal ones that required a National Gov<sup>t</sup>. Those were certainly important and necessary objects; but <sup>he</sup> ["it was equally necessary to" stricken out] combined with them the necessity, of providing more effectually for the security of private rights, and the <sup>steady</sup> dispensation of Justice. Interferences with these were evils which had <sup>more</sup> perhaps ["more" stricken out] than any thing else, ["produced" <sup>produced</sup> stricken out] this convention. Was it to be supposed that republican liberty could long exist under the abuses of it practiced <sup>some of</sup> in the States. The gentleman [M<sup>r</sup> Sherman] had admitted that in a very small State, faction & oppression w<sup>d</sup> prevail. It was to be inferred then that wherever these prevailed the State was too small. Had they not prevailed in the largest as well as the smallest tho' less than in the smallest; and were we not thence

admonished to enlarge the sphere as far as the nature of the Gov<sup>t</sup> would admit. This was the only defence ag<sup>st</sup> the inconveniences of democracy consistent with the democratic form of Gov<sup>t</sup>. All civilized Societies would be divided into different Sects, Factions, & interests, as they happened to consist of rich & poor, debtors & creditors, the landed the manufacturing, the commercial interests, the inhabitants of this district or that district, the followers of this political leader or that political leader, the disciples of this religious sect or that religious sect. In ["all cases" stricken out] all cases where ["the" stricken out] a majority are united by a common interest or passion, the rights of the minority are in danger. [illegible word stricken out] ["of the great" stricken out]. What motives are to restrain them? A prudent regard to the maxim that honesty is the best policy is found by experience to be as little regarded by bodies of men as by individuals. Respect for character is always diminished in proportion to the number among whom the blame or praise is to be divided. Conscience, the only remaining tie is known to be [<sup>inadequate</sup> "ineffectual in" stricken out] in individuals: In large numbers, little is to be expected from it. Besides, Religion itself may become a motive to persecution & oppression.—These observations are verified by the Histories of every Country antient & modern. In Greece & Rome the rich & poor, the creditors & debtors, <sup>as well as</sup> the patricians & plebeians ["had" stricken out] alternately oppressed each other with equal unmercifulness. What a source of oppression was the relation between the parent Cities of Rome, Athens & Carthage, & their respective provinces: the former possessing the power, & the latter <sup>being</sup> sufficiently distinguished to be separate objects of it? ["oppressiveness of it?" stricken out] Why was America so

justly apprehensive of Parliamentary injustice? Because G. Britain had a separate interest real or supposed, & if her authority had been admitted, could have pursued that interest at our expense. We have seen the mere distinction of colour made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man. What has been the source of those unjust laws complained of among ourselves? Has it not been the real or supposed interest of the major number? Debtors have defrauded their creditors. The landed interest has borne hard on the [illegible words <sup>mercantile</sup> stricken out] interest. The Holders of one species of property have thrown a disproportion of taxes on the holders of another species. The ["<sup>lesson</sup> lesson" stricken out] we are to draw from the whole is that where a majority are united by a common sentiment and have an opportunity, the rights of the minor party become <sup>insecure</sup> insecure. In a Republican Gov<sup>t</sup> the Majority if united have always an opportunity. The only [illegible word stricken out] remedy is to enlarge the sphere, & thereby divide the community into so great a number of interests & parties, that in the 1<sup>st</sup> place a majority will not be likely at the same moment to have a common interest <sup>separate</sup> ["distinct" stricken out] from that of the whole or of the minority; and in the 2<sup>d</sup> place, that in case they sh<sup>d</sup> have such an interest, they may not be apt to unite in the pursuit of it. It <sup>was</sup> ["were" stricken out] incumbent on us then to try this remedy, and with that view to frame a republican system on such a scale & in such a form as will contr<sup>ol</sup> <sup>all</sup> the evils w<sup>ch</sup> have been experienced.

M<sup>r</sup> Dickinson considered it as essential that one branch of the Legislature sh<sup>d</sup> be drawn immediately from the people; and as expedient that the other sh<sup>d</sup> be chosen by the Legisla-



tures of the States. This combination of the State Gov<sup>ts</sup> with the National Gov<sup>t</sup> was as politic as it was <sup>unavoidable</sup> ["unavoidable" stricken out]. In the formation of the Senate we ought to carry it through such a refining process as will assimilate it as near as may be to the House of Lords in England. He repeated his warm eulogiums on the British Constitution. He was <sup>for</sup> a strong National Gov<sup>t</sup> but for leaving the States a considerable agency in the System. The objection ag<sup>st</sup> making the former dependent on the latter might be obviated by giving to the Senate an authority permanent & irrevocable for three, five or seven years. Being thus independent they will speak & decide with becoming freedom.

M<sup>r</sup> Read. Too much attachment is betrayed to the State Govern<sup>ts</sup>. We must look beyond their continuance. A national Gov<sup>t</sup> must soon of necessity swallow all of them up. They will soon be <sup>reduced</sup> ["reduced" stricken out] to the mere office of electing the national Senate. He was ag<sup>st</sup> patching up the old federal System: he hoped the idea w<sup>d</sup> be dismissed. It would be like putting new cloth on an old garment. The confederation was founded on temporary principles. It cannot last: it cannot be amended. If we do not establish a good Gov<sup>t</sup> on new principles, we must either go to ruin, or have the work to do over again. The people at large are wrongly suspected of being averse to a Gen<sup>l</sup> Gov<sup>t</sup>. The aversion lies among interested men who possess their confidence.

M<sup>r</sup> Pierce was for an election by the people as to the 1<sup>st</sup> branch & by the States as to the 2<sup>d</sup> branch; by which <sup>means</sup> ["means" stricken out] the Citizens of the States w<sup>d</sup> be represented both individually & collectively.

General Pinkney wished to have a good national Gov<sup>t</sup> & at the same time to leave a considerable share of power in the

States. An <sup>election</sup> ["election" stricken out] of either branch by the people scattered as they are in many States, particularly in S. Carolina was totally impracticable. He differed from gentlemen who thought that a choice by the people w<sup>d</sup> be a better guard ag<sup>st</sup> bad measures, than by the Legislatures. A majority of the people in S. Carolina were notoriously for paper money as a legal tender; the Legislature had refused to make it a legal tender. The reason was that the latter had some sense of character and were restrained by that consideration. The State Legislatures [<sup>also he said</sup> "he thought" stricken out] would be more jealous, & more ready to thwart the National Gov<sup>t</sup> if excluded from a participation in it. The Idea of abolishing these Legislatures w<sup>d</sup> never go down.

M<sup>r</sup> Wilson, would not have spoken again, but for what had fallen from M<sup>r</sup> Read; namely, that the idea of preserving the State Gov<sup>ts</sup> ought to be abandoned. He saw no incompatibility between the ["national" stricken out] national & State Gov<sup>ts</sup> provided the latter were restrained to certain local purposes; nor any probability of their <sup>being</sup> devoured by the former. In all confederated systems antient & modern the reverse had happened; the Generality being destroyed gradually by the usurpations of the parts composing it.

On the question for electing the 1<sup>st</sup> branch by the State Legislatures as moved by M<sup>r</sup> Pinkney; it was negatived:

Mass no. C<sup>t</sup> ay. N. Y. no. N. J. ay. Pa no. Del. no. M<sup>d</sup> no. Va no. N. C. no. S. C ay. Geo. no.

M<sup>r</sup> Wilson moved to reconsider the vote excluding the Judiciary from a share in the revision of the laws, and to add after "National Executive" the words "with a convenient number of the national Judiciary"; remarking the expediency of reinforcing the Executive with the influence of that Department.

Mr Madison 2<sup>ded</sup> the motion. He observed that the great difficulty in rendering the Executive competent to its own defence arose from the nature of Republican Gov<sup>t</sup> which could not ["grant" stricken out] give to an individual citizen that settled pre-eminence in the eyes of the rest, that weight of property, that personal interest [illegible word stricken out] ag<sup>st</sup> betraying the National interest, which appertain to an hereditary magistrate. In a Republic personal merit alone could be the ground of political exaltation, but it would rarely happen that this merit ["<sup>would be so</sup> would be so" stricken out] pre-eminent as to produce universal acquiescence. The Executive Magistrate would be ["constantly" stricken out] envied & assailed by disappointed competitors: His firmness therefore w<sup>d</sup> need support. He would not possess those great emoluments from his station, nor that permanent stake in the public interest which w<sup>d</sup> place <sup>him</sup> out of the <sup>reach</sup> ["reach" stricken out] of foreign corruption: He would stand in need therefore of being controuled as well as supported. An association of the Judges in his revisionary function w<sup>d</sup> both double the advantage and [illegible word stricken out] <sup>diminish</sup> the danger. It w<sup>d</sup> also enable the Judiciary Department the better to defend itself ag<sup>st</sup> Legislative encroachments. Two objections had been made 1<sup>st</sup> that the Judges ought not to be subject to the bias ["s" stricken out] which a participation in the making of laws might give <sup>in</sup> ["to" stricken out] the exposition of them. 2<sup>dly</sup> that the Judiciary Departm<sup>t</sup> ought to be separate & distinct from the other great Departments. The 1<sup>st</sup> objection had some weight; but it was much diminished by reflecting that a small proportion of the laws coming in question before a Judge w<sup>d</sup> be such wherein he had been <sup>["an agent" stricken out]</sup> ["personally concerned" stricken out] consulted; that a small part of this proportion

w<sup>d</sup> be so ambiguous as to leave room for his prepossessions; and that but a few cases w<sup>d</sup> probably arise in the life of a Judge under such ambiguous passages. How much good on the other hand w<sup>d</sup> proceed from the perspicuity, the conciseness, and the systematic character w<sup>ch</sup> the Code of laws w<sup>d</sup> receive from [<sup>the</sup> "from" stricken out] Judiciary talents. As to the 2<sup>d</sup> objection, it either had no weight, or it applied with equal weight to the Executive & to the Judiciary revision of the laws. The maxim on which the objection was founded required a separation of the Executive as well as of the Judiciary from the Legislature & from each other. There [<sup>w<sup>d</sup></sup> "was" stricken out], in truth however <sup>be</sup> no improper mixture of these distinct powers in the present case. In England, whence the maxim itself had been drawn, the Executive had an absolute negative on the laws; and the supreme tribunal of Justice [the House of Lords] formed one of the other branches of the Legislature. In short, whether the object of the revisionary power was to restrain the Legislature from encroaching on the other co-ordinate Departments, or on the rights of the people at large; or from passing laws unwise in their principle, or incorrect in their form, the utility of [<sup>annexing</sup> "adding" stricken out] the wisdom and weight of the Judiciary to the Executive seemed incontestable.

M<sup>r</sup> Gerry thought the Executive, whilst standing alone w<sup>d</sup> be more impartial than when he c<sup>d</sup> be covered [<sup>"with"</sup> stricken out] by the sanction & seduced by the sophistry of the Judges

M<sup>r</sup> King. If the Unity of the Executive was preferred for the sake of responsibility, <sup>the</sup> policy of it [<sup>is</sup> "was" stricken out] as applicable to the revisionary as to the Executive power.

M<sup>r</sup> Pinkney had been at first in favor of [<sup>joining</sup> "making"]

stricken out] the heads of the principal departm<sup>ts</sup> the Secretary at War, of foreign affairs &— [<sup>in the</sup>“a” stricken out] council of revision. He had however relinquished the idea from a consideration that these could be called on by the Executive Magistrate whenever he pleased to consult<sup>them.</sup> He was opposed to an introduction of the Judges into the business.

Col Mason was for giving all possible weight to the revisionary institution. The Executive power ought to be well secured ag<sup>st</sup> Legislative usurpations on it. The [“sword and the” stricken out] purse & the sword ought never to [“be <sup>get into</sup>in” stricken out] the same hands whether Legislative or Executive.

M<sup>r</sup> Dickinson. Secrecy, vigor & despatch are not the principal properties req<sup>d</sup> in the Executive. Important as these are, that of responsibility is more so, which can only be preserved; by leaving it singly to discharge its functions. He thought too<sup>a</sup> junction of the Judiciary to it, involved an improper mixture of powers.

M<sup>r</sup> Wilson remarked, that the responsibility required belonged to his Executive <sup>duty</sup>duties. The revisionary [“duties” stricken out] was an extraneous one, calculated for collateral purposes.

M<sup>r</sup> Williamson, was for substituting a clause requiring <sup>2,3</sup> for every effective act of the Legislature, in place of the revisionary provision

On the question for [<sup>joining the Judges to the Executive in the revisionary business</sup>“adding the Judges to this revisionary establishment.” stricken out] Mass. no. Con<sup>t</sup> ay. N. Y. ay. N. J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

[“Adjourned” stricken out]

M<sup>r</sup> Pinkney gave notice that to morrow he should move for

the reconsideration of that clause in the sixth Resolution adopted by the Comm<sup>e</sup> which vests a negative in the National Legislature on the laws of the several States. ["Friday was assigned for the reconsideration" stricken out.]

The Com<sup>e</sup> rose & adj<sup>d</sup> <sup>the House</sup> to 11 OC.

Thursday June 7<sup>th</sup> 1787. In Committee of the whole.  
according to notice

M<sup>r</sup> Pinkney moved to reconsider the clause respecting the negative on State laws which was agreed to [<sup>["friday" stricken out]</sup> "and a day fixt for the purpose." stricken out] and tomorrow <sup>for</sup> fixt the purpose.

The Clause providing for y<sup>e</sup> appointment of the 2<sup>d</sup> branch of the national Legislature, having lain blank since the last vote on the mode of ["fillin" stricken out] electing it, to wit, by the 1<sup>st</sup> branch, M<sup>r</sup> Dickenson now moved "that the members [<sup>of the 2<sup>d</sup> branch ought to be chosen</sup> "should be elected" stricken out] by the individual Legislatures."

M<sup>r</sup> Sherman seconded the motion; observing that the particular States would thus become interested in supporting the National Govern<sup>t</sup> and that a due harmony between the two Governments would be maintained. He admitted that the two ought <sup>to</sup> have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

M<sup>r</sup> Pinkney. If the small States should be allowed one Senator only, the number will be too great, there will be 80 at least.

M<sup>r</sup> Dickenson had two reasons for his motion. 1. ["that" stricken out] because the sense of the States would be better collected through their Governments; than immediately from the people at large. 2. because he wished the Senate to consist of the most distinguished characters, distinguished for



their rank in life and their weight of property, and bearing as strong a likeness to the <sup>British</sup> House of Lords as possible; and he thought such characters more likely to be selected by the State Legislatures, than in any other mode. The greatness of the number was no objection with him. He hoped there would be 80 and <sup>twice</sup> 80. of them. If their number should be small, the popular branch could not be [letters effaced] lanced by them. The legislature of a numerous people ought to be a numerous body.

Mr Williamson, preferred a small number of Senators, but wished that each State should have at least one. He suggested 25 as a convenient number. The different modes of representation in the different branches, will serve as a mutual check.

Mr Butler was anxious to know the ratio of representation before he gave any opinion.

Mr Wilson. If we are to establish a national Government, that Government ought to flow from the people at large. If one branch of it should be chosen by the Legislatures, and the other by the people, the two branches will rest on different foundations, and dissensions will naturally arise between them. He wished the Senate to be elected by the people as well as the other branch, and the people might be divided into proper districts for the purpose & ["moved" stricken out] moved to postpone the motion of Mr Dickenson, in order to take up one ["for that purp" stricken out] of that import.

Mr Morris 2<sup>d</sup> him.

Mr Read proposed "that the Senate should be appointed by the Executive Magistrate out of a proper number of persons to be nominated by the individual legislatures." He said he thought it his duty, to speak his mind frankly. Gentlemen

he hoped would not be alarmed at the idea. Nothing short of this approach towards a proper model of Government would answer the purpose, and he thought it best to come directly to the point at once.—His proposition was not seconded nor supported.

M<sup>r</sup> Madison, if the motion [of M<sup>r</sup> Dickenson] should be agreed to, we must either depart from the doctrine of proportional representation; or admit into the Senate [“a very large <sup>a very large</sup> large” stricken out] number of members. The first is inadmissible, being evidently unjust. The second is [illegible word stricken out] inexpedient. The use of the Senate [“<sup>“was”</sup> stricken out] to [“would” stricken out] consist in its proceeding with more coolness, with more system, & with more wisdom, than the popular branch. Enlarge their number and you communicate to them the vices which they are meant to correct. [illegible words stricken out] He differed from M<sup>r</sup> D. [“in thinking that” stricken out] who thought that the additional number would give additional weight to the body. On the contrary it appeared to him that their weight would be in an inverse ratio to their number. The [“<sup>example</sup> case” stricken out] of the Roman Tribunes was applicable. They lost their influence and power, in proportion as their number was augmented. The reason seemed to be obvious: They were appointed to take care of the popular interests & pretensions at Rome, because the people <sup>by reason of their numbers</sup> [“being” illegible word stricken out] could not act in concert; were liable to fall into factions among themselves, and to become a prey to their aristocratic <sup>adversaries.</sup> [illegible word stricken out] The more the representatives of the people therefore were multiplied, the more they partook of the infirmities of their constituents, the more liable they became to [“division” stricken out] be divided among them.

selves either ["by" <sup>from</sup> stricken out] their own indiscretions or the artifices of the opposite factions, and of course <sup>the</sup> less capable of fulfilling their trust. When the ["influence and" stricken out] weight of a set of men depends merely on their personal ["qualities" stricken out] characters; the greater the number the greater the weight. When it depends on the degree of political authority lodged in <sup>them</sup> the smaller the number the greater the weight. ["The Both" stricken out] These considerations might perhaps be combined in the intended Senate; but the latter was the material one.

Mr Gerry. 4 modes of appointing the Senate <sup>have been mentioned,</sup> 1. by the 1<sup>st</sup> branch of the National Legislature. This would create a dependence contrary to the end proposed. 2. by the National Executive. This is a stride towards monarchy that few will think of. 3. by the people. the people have too great interests, the landed interest, and the commercial including the stockholders. To draw both branches from the people will leave no security to the latter interest; the people being chiefly composed of the landed interest, and erroneously, supposing, that the other interests are adverse to it. 4 by the Individual Legislatures. The elections being carried thro' this refinement, will be most likely to provide some check in favor of the commercial interest ag<sup>st</sup> the landed; ["wh" stricken out] without which oppression will take place, and no <sup>free</sup> Gov<sup>t</sup> can last long when that is the case. He was therefore in favor of this last.

Mr Dickenson.\* The preservation of the States in a certain degree of agency is indispensable. It will produce that

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\*It will throw light on this discussion, to remark tht an election by the State Legislatures involved a surrender of the principle insisted on by the large States & dreaded by the small ones, namely that of a proportional representation in the Senate. Such a rule wd. make the body too numerous. As the smallest State ["could" illegible words <sup>must elect</sup> stricken out] one member at least.

collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether, would degrade the Councils of our Country, would be impracticable, would be ruinous. He compared the proposed National <sup>System</sup> ["Gov<sup>t</sup>" stricken out] to the Solar System, in which the ["planets resembled" stricken out] States were the planets, and ought to be left to move freely in their proper orbits. The Gentleman from Pa [M<sup>r</sup> Wilson] wished he said to extinguish these planets. If the State Governments were excluded from the national one, and all power drawn from the people at large, the consequence would be that the national Gov<sup>t</sup> would <sup>all agency in</sup> ["move" stricken out] in the same direction as the State Gov<sup>ts</sup> now do, and would run into all the <sup>same</sup> mischiefs. The reform would only unite the 13 small streams into one great current pursuing the same course without <sup>any</sup> opposition whatever. He adhered to the opinion that the Senate ought to be composed of a large number, and that their influence would be increased <sup>from family weight & other causes</sup> ["by" illegible words stricken out] <sup>thereby.</sup> He did not admit that the Tribunes lost their <sup>weight</sup> ["in" written upon "by"] proportion as their n<sup>o</sup> was augmented <sup>and gave a historical sketch of this institution Madison</sup>. If the reasoning of [M<sup>r</sup> <sup>number</sup> was good it would prove that the ["no." stricken out] of the Senate ought to be reduced below ten, the highest n<sup>o</sup> of the Tribunitial corps.

M<sup>r</sup> Wilson. The subject it must be owned is surrounded with doubts and difficulties. But we must surmount them. The British Government cannot be our model. We have no materials for ["a" written upon "such"] similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it. He did not see the danger of the States being devoured by the Nation<sup>l</sup> Gov<sup>t</sup>. On the contrary, he wished to keep

them from devouring the national Gov<sup>t</sup>. He was not however for extinguishing these planets —neither did he [“believe that” stricken out] on the other hand, believe that they would warm or enlighten the Sun. Within their proper orbits they must still be suffered to act for subordinate purposes as was supposed by Mr. D. for which their existence is made essential by the great extent of our Country. He could not comprehend in what manner the landed interest w<sup>d</sup> be rendered less predominant in the Senate, by an election through the medium of the Legislatures than by the people themselves. If the Legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views. He was for an election by the people in large districts which w<sup>d</sup> be most likely to obtain men of intelligence & uprightness; subdividing the districts only for the accomodation of voters.

Mr Madison could as little comprehend in what manner family weight, as desired by Mr D. would be more certainly conveyed into the Senate through elections by the State Legislatures, than in some other modes. The question was in <sup>true</sup> what mode the best choice w<sup>d</sup> be made? If an election by the people, or thro’ any other channel than the State Legislatures promised as uncorrupt & impartial a preference of merit, there could surely be no necessity for an appointment by those Legislatures. Nor was it apparent that a more useful check would be derived thro’ that channel than from the people thro’ some other. The great evils complained of were that the State Legislatures run into [“the” stricken out] schemes of paper money &c, whenever solicited by the people, & sometimes without even the sanction of the people. Their influence then, instead of checking a like propensity in the National Legislature, [“will” stricken out] may be expected to pro-

mote it. Nothing can be more contradictory than to say that the Nat<sup>l</sup> Legislature with<sup>t</sup> a proper check, will follow the example of the State legislatures, & in the same breath, that the State Legislatures are the only proper check.

M<sup>r</sup> ["Sherman" stricken out] Sherman opposed elections by the people in districts, as not likely to produce such fit men as elections by the State Legislatures.

M<sup>r</sup> Gerry insisted that the commercial & monied interest w<sup>d</sup> be more secure in the hands of the State Legislatures, than of the people at large. The former have more sense of character, and will be restrained by that from injustice. The people are for paper money when the Legislatures are ag<sup>st</sup> it. In Mass<sup>ts</sup> the County Conventions had declared a wish for a depreciating paper that w<sup>d</sup> sink itself. Besides, in some States there are two Branches in the Legislature, one of which is somewhat aristocratic. There w<sup>d</sup> therefore be so far a better chance of refinement in the choice. There seemed, he thought to be three powerful objections ag<sup>st</sup> elections by districts 1. It is impracticable; the people can not be brought to one place for the purpose; and whether brought to the same place or not, numberless frauds w<sup>d</sup> be unavoidable. 2. small States forming part of the same district with a large one, or large part of ["one" stricken out] a large one, w<sup>d</sup> have no chance of gaining an appointment for its citizens of merit. 3 a new source of discord w<sup>d</sup> be opened between different parts of the same district.

M<sup>r</sup> Pinkney thought the 2<sup>d</sup> branch ought to be permanent & independent, & that the members of it w<sup>d</sup> be rendered more so by receiving their appointment from the State Legislatures. This mode w<sup>d</sup> avoid the rivalships & discontents incident to the election by districts. He was for dividing the



States ["into three" stricken out] into three classes according to their respective sizes, & for allowing to the 1<sup>st</sup> class three members—to the 2<sup>d</sup> two. & to the 3<sup>d</sup> one.

On the question for postponing M<sup>r</sup> Dickinson's motion referring the appointment of the Senate to the State Legislatures, in order to consider M<sup>r</sup> Wilson's for referring it to the people.

Mass. no. Con<sup>t</sup> no. N. Y. no. N. J. no. P<sup>a</sup> ay Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

Col. Mason. whatever power may be necessary for the Nat<sup>l</sup> Gov<sup>t</sup> a certain portion must necessarily be left in the States. It is impossible for one power to pervade the extreme parts of the U. S. so as to carry equal justice to them. The State Legislatures also ought to have some means of defending themselves ag<sup>st</sup> encroachments of the Nat<sup>l</sup> Gov<sup>t</sup>. In every other department we have studiously endeavored to provide for its self-defence. Shall we leave the States alone unprovided with the means for this purpose? ["And" stricken out] And what better means can we provide than the giving them some share in, or rather to make them a constituent part of, the Nat<sup>l</sup> Establishment. There is danger on both sides no doubt; but we have only seen the evils arising on the side of the State Gov<sup>ts</sup>. Those on the <sup>other</sup> side remain to be displayed. The example of Cong<sup>s</sup> does not apply. Cong<sup>s</sup> had no power to carry their acts into execution as the Nat<sup>l</sup> Gov<sup>t</sup> will have.

On M<sup>r</sup> Dickinson's motion for an appointment of the Senate by the State-Legislatures.

Mass. ay. C<sup>t</sup> ay. N. Y. ay. P<sup>a</sup> ay Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gerry gave notice that he w<sup>d</sup> tomorrow move for a

reconsideration of the mode of appointing the Nat<sup>l</sup> Executive  
in order to substitute an appointm. by the State Executives

The Committee rose & The House adj<sup>d</sup>

Friday June 8<sup>th</sup> In Committee of the Whole.

On a reconsideration of the clause giving the Nat<sup>l</sup> Legislature a negative on such laws of the States as might be contrary to the articles of Union, or Treaties with foreign nations,

Mr Pinkney moved "that the National Legislature sh<sup>d</sup> have authority to negative all Laws which they sh<sup>d</sup> judge to be improper". He urged that such a universality of the power was indispensably necessary to render it effectual; that the States must be kept in due subordination to the nation; that if the States were left to act of themselves in any case, it w<sup>d</sup> be impossible to defend the national prerogatives, however extensive they might be on paper; that the acts of Congress had been defeated by this means; nor had foreign treaties escaped repeated violations; that this universal negative was in fact the corner stone of an efficient national Gov<sup>t</sup>; that under the British Gov<sup>t</sup> the negative of the Crown had been found beneficial, and the States are more one nation now, than the Colonies were then.

Mr Madison seconded the motion. He could not but regard an indefinite power to negative legislative acts of the States as absolutely necessary to a perfect system. Experience had evinced a constant tendency in the States to encroach on the federal authority; to violate national Treaties, to infringe the rights & interests of each other; to oppress the weaker party within their respective jurisdictions. A negative was the

mildest expedient that could be devised for preventing these mischiefs. The existence of such [<sup>["a" stricken out]</sup> "check w<sup>d</sup>" <sup>a check would</sup> stricken out] prevent attempts to commit them. Should no such precaution be engrafted, the only remedy w<sup>d</sup> lie in an appeal to coercion. Was such a remedy eligible? was it practicable? Could the national resources, if exerted to the utmost enforce a national decree ag<sup>t</sup> Mass<sup>ts</sup> abetted perhaps by several of her neighbours? It w<sup>d</sup> not be possible. A; small proportion of the Community in a compact situation, acting on the defensive, and at one <sup>of its</sup> extremities [<sup>["of" stricken out]</sup> "of" stricken out] might at any time bid defiance to the National authority. Any Gov<sup>t</sup> for the U. States formed on the supposed practicability of using force <sup>unconstitutional proceedings</sup> ag<sup>t</sup> the [<sup>["misdeeds" stricken out]</sup> "misdeeds" stricken out] of the States, w<sup>d</sup> prove as visionary & fallacious as the Gov<sup>t</sup> of Cong<sup>s</sup>. The negative w<sup>d</sup> render the use of force unnecessary. The States c<sup>d</sup> of themselves [<sup>then pass no operative</sup> "pass no law" stricken out] act, any more than one branch of a Legislature where there are two branches, can proceed without the other. But in order to give the negative this efficacy, it must extend to all cases. A discrimination w<sup>d</sup> only be <sup>a</sup> fresh source of contention between the two authorities. In a word, to [<sup>recur</sup> "recur" stricken out] to the illustrations borrowed from the planetary System, This prerogative of the General Gov<sup>t</sup> is the great pervading principle that must controul the centrifugal tendency of the States; which, without it, will continually fly out of their proper orbits and [<sup>["destroy" stricken out]</sup> "destroy" stricken out] destroy the order & harmony of the [<sup>["systems" stricken out]</sup> "systems" stricken out] political system.

Mr Williamson was ag<sup>t</sup> giving a power that might restrain the States from regulating their internal police.

Mr Gerry c<sup>d</sup> not see the extent of such a power, and was ag<sup>t</sup> every power that was not [<sup>["clearly" stricken out]</sup> "clearly" stricken out] nec-

essary. He thought a remonstrance ag<sup>st</sup> unreasonable acts of the States w<sup>d</sup> reclaim <sup>them</sup>. If it sh<sup>d</sup> not force ["might" stricken out] might be resorted to. He had no objection to authorize a negative to paper money and similar ["institutions" stricken out] measures. When the confederation was depending before Congress, Massachusetts was then for ["including" <sup>inserting</sup> stricken out] the power of emitting paper money am<sup>g</sup> the exclusive powers of Congress. He observed that the proposed negative w<sup>d</sup> extend to the regulations of the militia, a matter on which the existence of a State might depend. The Nat<sup>l</sup> Legislature with such a power may enslave the States. Such an idea as this will never be acceded to. It has never been suggested or conceived among the people. No speculative projector, and there are eno' of that character among us, in politics as well as in other things, has in any pamphlet or newspaper thrown out [<sup>the idea</sup> "a sug" stricken out]. The States too have different interests and are ignorant of each other's interests. The negative therefore will be abused, New States too having separate views from the old States will never come into the Union, [<sup>They</sup> "and" <sup>^</sup> stricken out] may even be under some foreign influence; are they in such case to participate in the negative on <sup>the</sup> will of the other States?

M<sup>r</sup> Sherman thought the cases in which the negative ought to be exercised, might be defined. He wished the point might not be decided till a trial at least sh<sup>d</sup> be made for that purpose

M<sup>r</sup> Wilson would not say what modifications of the proposed power might be practicable or expedient. But however novel it might appear the principal of it when viewed with a close & steady eye, is right. There is no instance in which

the laws say that the individuals sh<sup>d</sup> be bound in one case, & at liberty to judge whether he will obey ["or disobey" stricken out] or disobey in another. The cases are parallel, Abuses of the power over the individual person may happen as well as over <sup>the individual</sup> States. Federal liberty is to States, what civil liberty, is to private individuals. And States are not more unwilling to purchase it, by the necessary concession of <sup>their</sup> political sovereignty, that the savage is to purchase Civil liberty by the surrender of ["the natural and" stricken out] personal sovereignty, which he enjoys in a State of nature. A definition of the cases in which the Negative should be exercised, is impracticable. A discretion must be left on one side or the other? Will it not be most safely lodged on the side of the Nat<sup>l</sup> Gov<sup>t</sup>?— Among the first sentiments expressed in the first Cong<sup>s</sup> one was that Virg<sup>a</sup> is no more. That Mass<sup>ts</sup> is no, that P<sup>a</sup> is no more &c. We are now one nation of brethren. We must bury all local interests & distinctions. This language continued for some time. The tables at length began to turn. ["Each State" stricken out] No sooner were the State Gov<sup>ts</sup> formed than their jealousy & ambition began to display <sup>themselves</sup> ["itself" stricken out]. Each endeavoured to cut a slice from the common loaf, to add to its own morsel, till at length the confederation became frittered down to the impotent condition in which it now stands. Review the progress of the articles of Confederation thro' Congress & compare the first & last draught of it. To correct its vices ["was" stricken out] is the business of this convention. One of its vices is the want of an effectual controul in the whole over its parts. What danger is there that the whole will unnecessarily sacrifice a part? But reverse the case, and leave the whole at the mercy of each part, and will

not the general interest be continually sacrificed to local interests?

Mr Dickenson deemed it impossible to draw a line between the cases proper & improper for the exercise of the negative. We must take our choice of two things. We must either subject the States to the danger of being injured by the power of the Nat<sup>l</sup> Gov<sup>t</sup> or the latter to the danger of being injured by that of the States. He thought the danger greater from the States. To leave the [illegible word <sup>power</sup> stricken out] doubtful, would be opening another spring of discord, and he was for shutting as many of them as possible.

Mr Bedford. In answer to his colleagues question, where w<sup>d</sup> be the danger to the States from this power, would refer him to the smallness of his own State which may be injured at pleasure without redress. It was meant he found to strip the small States of their equal right of suffrage. In this case Delaware would have about <sup>for its</sup>  $\frac{1}{90}$  share in the General Councils, whilst P<sup>a</sup> & V<sup>a</sup> would possess  $\frac{1}{3}$  of the whole. Is there no difference of interests, no rivalry of commerce, of manufactures? Will not these large States crush the small ones whenever they stand in the way of their ambitions or interested views. This shows the impossibility of adopting such a system as that on the table, or any other founded on a change in the principle of representation. And after all, if a State does not obey the law of the new System, must not force be resorted to as the only ultimate remedy, in this as in any other system. It seems as if P<sup>a</sup> & V<sup>a</sup> by the conduct of their deputies wished to provide a system in which they would have an enormous & monstrous influence. <sup>Besides,</sup> How can it be thought that the proposed negative can be exercised? are the laws of the States to be suspended in the most urgent cases



until they can be sent seven or eight hundred miles, and undergo the deliberations of a body who may be incapable of Judging of them? Is the National Legislature too to sit continually in order to revise the laws of the States?

M<sup>r</sup> Madison observed that the difficulties which had been started were worthy of attention and ought to be answered before the question was put. The case of laws of urgent necessity must be provided for by some emanation of the power from the Nat<sup>l</sup> Gov<sup>t</sup> into each State so far as to give a temporary assent <sup>at least.</sup> This was the practice in Royal Colonies before the Revolution and would not have been inconvenient; if the supreme power of negating had been faithful to the American interest, and had possessed the necessary information. He supposed that the negative might be very properly lodged in the senate alone, and that the more numerous & expensive branch therefore might ["be" stricken out] not be obliged to sit constantly.—He asked M<sup>r</sup> B. what would be the consequence of a dissolution of the <sup>to the small States</sup> ["States" stricken out] <sup>Union</sup> w<sup>ch</sup> seemed likely to happen if no effectual substitute was made for the defective System existing, and he did not conceive any effectual ["substitute" stricken out] system could be substituted on any other basis than that of a proportional suffrage? If the large States possessed the Avarice & ambition with which they were charged, would the small ones in their neighbourhood, be more secure when all controul was <sup>of a Genl. Gov<sup>t</sup></sup> withdrawn.

M<sup>r</sup> Butler was vehement ag<sup>st</sup> the Negative in the proposed extent, as ["cut" stricken out] cutting off all hope of equal justice to the distant States. The people there would not he was sure give it a hearing.

On the question for extending the negative power to all

cases as propos<sup>d</sup> by [M<sup>r</sup> P. & M<sup>r</sup> M——] Mas. ay. Con<sup>t</sup> no. N. Y. no. N. J. no. Pa<sup>a</sup> ay. Del. div<sup>d</sup> M<sup>r</sup> Reed & M<sup>r</sup> Dickenson ay. M<sup>r</sup> Bedford & M<sup>r</sup> Basset no. Mary<sup>d</sup> no. Va<sup>a</sup> ay. M<sup>r</sup> R. M<sup>r</sup> Mason no. M<sup>r</sup> Blair, Doc<sup>r</sup> M<sup>c</sup> C<sup>g</sup> M<sup>r</sup> M. ay. Gen<sup>l</sup> W. not consulted. N. C. no. S. C. no Geo. no.

On motion of Mr. Gerry and Mr. King tomorrow was assigned for reconsidering the mode of the reconsideration being voted for by all the States except Connecticut & N. Carolina, appointing the National Executive :

Mr. Pinkney and Mr. Rutledge moved to add to Resol<sup>n</sup>. 4. agreed to by the Com<sup>e</sup>. the following, viz. "that the States be divided into three classes, the 1<sup>st</sup>. class to have 3 members, the 2<sup>d</sup>. two. & the 3<sup>d</sup>. one member each; that an estimate be taken of the comparative importance of each State at fixed periods, so as to ascertain the number of members they may from time to time be entitled to" The Committee then rose and the House adjourned.

M<sup>r</sup>. Luther Martin from Maryland took his seat

Saturday June 9<sup>th</sup> In committee of the whole

M<sup>r</sup> Gerry, according to <sup>previous</sup> notice given by him, moved "that the National Executive should be elected by the Executives of the States whose proportion of votes should be the same with that allowed to the States in the election of the Senate". If the appointm<sup>t</sup> should be made by the Nat<sup>l</sup> Legislature, it would lessen that independence <sup>of the Executive</sup> which ought to prevail, would give birth to intrigue and corruption between the Executive & Legislature previous to the elections and to partiality in the Executive afterwards to the friends who promoted him. Some other mode therefore appeared to him necessary. He proposed that of appointing by the ["the" stricken out] State Executives as most analogous to the principle observed in electing the other branches of the Nat<sup>l</sup> Gov<sup>t</sup>; the first branch being chosen by the people of the States, & the 2<sup>d</sup> by the Legislatures of the States; he did not see any objection ag<sup>st</sup> letting the Executive be appointed by the Executives of the States. He supposed the Executives ["will" stricken out] <sup>would</sup> <sub>^</sub>

be most likely to select the fittest men, and that it would be their interest to support the man of their own choice.

M<sup>r</sup> Randolph, urged strongly the inexpediency of M<sup>r</sup> Gerry's mode of appointing the Nat<sup>l</sup> Executive. The confidence of the people would not be secured by it to the Nat<sup>l</sup> magistrate. The small States would lose all chance of an appointm<sup>t</sup> from within themselves. Bad appointments [<sup>would</sup> "will" stricken out] be made; the Executives of the States being little conversant with characters not within their own small spheres. The State Executives too notwithstanding their constitutional independence, being in fact dependent on the State Legislatures will generally be guided by the views of the latter, and prefer either favorites within the States, [<sup>or</sup> "and" stricken out] such as it may be expected will be most partial to the interests of the State. A Nat<sup>l</sup> Executive thus chosen will not be likely to defend with becoming vigilance & firmness the national rights ag<sup>st</sup> State encroachments. Vacancies also must happen. How can these be filled? He could not suppose either that the Executives would feel the interest in supporting the Nat<sup>l</sup> Executive which had been imagined. They will not cherish the great Oak which is to reduce them to paltry shrubs.

On the question for referring the appointment of the Nat<sup>l</sup> Executive to <sup>the</sup> State Executives as prop<sup>d</sup> by M<sup>r</sup> Gerry Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no. N. J. no. Pa<sup>a</sup> no. Del. div<sup>d</sup> M<sup>d</sup> no. Va<sup>a</sup> no. S. C. no. Geo. no.

M<sup>r</sup> Patterson moves that the Committee [<sup>might</sup> "might" stricken out] resume the clause relating to the rule of suffrage in the Nat<sup>l</sup> Legislature,

M<sup>r</sup> Brearly seconds him. He <sup>was</sup> sorry he said that any question on this point was [<sup>raised.</sup> "raised." stricken out] brought into

view. It had been much agitated in Cong<sup>s</sup> at the time of forming the Confederation and was then rightly settled by allowing to each sovereign State an equal vote. Otherwise the smaller States must have been destroyed instead of being saved. The substitution of a ratio, he admitted carried fairness on the face of it; but on a deeper examination was unfair and unjust. Judging of the disparity of the States by the quota of Cong<sup>s</sup> Virg<sup>a</sup> would have 16 votes, and Georgia but one. A like proportion to the others will make the whole number ninety. There will be 3. large states and 10 small ones. The large States by which he meant Mass<sup>ts</sup> Pen<sup>a</sup> & Virg<sup>a</sup> will carry every thing before them. It had been admitted, and was known to him from facts within N. Jersey that where large and small counties were united into a district for electing <sup>representatives</sup> ["persons" stricken out] for the district, the large counties always carried their point, and Consequently that the large States would do so. ["in all elections referred." stricken out] Virg<sup>a</sup> with her sixteen votes will be a solid column indeed, a formidable phalanx. While Georgie with her Solitary vote, and the other little States will be obliged to throw themselves constantly into the scale of some large one, in order to have any weight at all. He had come to the convention with a view of being as useful as he could in giving energy and stability to the federal Government. When the proposition for destroying the equality of votes came forward ["he was" stricken out], he was astonished, he was alarmed. Is it fair then it will be asked that Georgia should have an equal vote with Virg<sup>a</sup>? He would not say it was. What remedy then? One only, that a map of the U. S. be spread out, that all the existing boundaries be erased, and that a new partition of the whole be made into 13 equal parts

Mr Patterson considered the proposition ["in the" stricken out] for a proportional representation as striking at the existence of the lesser States. He <sup>wel.</sup> premise["d" stricken out] however to an investigation of this question some remarks on the nature structure and powers of the Convention. The Convention he said was formed in pursuance of an Act of Cong<sup>s</sup> that this act was recited in several of the Commissions, particularly that of Mass<sup>ts</sup> which he required to be read: That the amendment of the confederacy was the object of all the laws and commissions on the subject; that the articles of the confederation were therefore the <sup>proper</sup> basis of all the proceedings of the Convention. We ought to keep within its limits, or we should be charged by our constituents with usurpation. <sup>that</sup> the people of America were sharp sighted and not to be deceived. But the Commissions under which we acted were not only the measure of our power, they denoted also the sentiments of the States on the subject of our deliberation. The idea of a national Gov<sup>t</sup> as contradistinguished from a federal one, <sup>["which" stricken out]</sup> never entered into the mind of any of them, and to the public mind we must accomodate ourselves. We have no power to go beyond the federal scheme, and if we had the people are not ripe for any other. We must follow the people; the people will not follow us. The proposition could not be maintained whether considered in reference to us as a nation, or <sup>as</sup> a confederacy. A confederacy supposes sovereignty in the members composing it & sovereignty supposes equality. If we are to be considered as a nation, ["we must be" stricken out] all State distinctions must be abolished, ["we must" stricken out] the whole must be thrown into hotchpot["ch" stricken out], and when an equal division is made, then there may be fairly an equality of

representation. He held up Virg<sup>a</sup> Mass<sup>ts</sup> & Pa<sup>a</sup> as the three large States, and the other ten as small ones; repeating the calculations of M<sup>r</sup> Brearly as to the disparity of votes which w<sup>d</sup> take place, and affirming that the small States would never agree to it. He said there was no more reason that a great individual <sup>State</sup> contributing much [“why a rich State” stricken out], should have more votes than a small one than that a rich individual citizen should have more <sup>votes</sup> than an indigent one. If the rateable property of A was to that of B as 40 to 1. ought A for that reason to have 40 times as many votes as B. Such a principle would never be admitted, and if it were admitted would put B entirely at the mercy of A. As A. has more to be protected than B so he ought to contribute more for the common protection. The same may be said of a large State w<sup>ch</sup> has more to be protected than a small one. Give the [“m” stricken out] large States an influence in proportion to their magnitude, and what will be the consequence? Their ambition will be proportionally increased, and the small States will have every thing to fear. It was once proposed by Galloway & some others that America [“n” stricken out] should be represented in the British Parl<sup>t</sup> and then be bound by its laws. America could not have been entitled to more than  $\frac{1}{3}$  of the n<sup>o</sup> of Representatives which would fall to the share of G. B. Would American rights & interests have been safe under [“such” stricken out] an authority thus constituted? It has been said that if a Nat<sup>l</sup> Gov<sup>t</sup> is to be formed so as to operate on [“individuals” stricken out], the people and not on the States, the representatives ought to be drawn from the people. But why so? May not a Legislature filled by the State [“s” stricken out] <sup>Legislatures</sup> operate on the people who chuse the State Legislatures?



or <sup>a practicable</sup> may not coercion be found. He admitted that there was none such in the existing System. He was ["to" stricken out] attached strongly to the <sup>plan of the</sup> existing confederacy, in which the people chuse their Legislative representatives; and the Legislatures their federal representatives. ["Nothing" stricken out] No other amendments ["he said" stricken out] were wanting than to mark the orbits of the States with due precision, and provide for the use of coercion, which was the great point. He alluded to the hint thrown out heretofore by M<sup>r</sup> Wilson of the necessity to which the large States might be reduced of confederating among themselves, by a refusal of the others to concur. Let them unite if they please, but let them remember that they have no authority to compel the others to unite. N. Jersey will never confederate on the plan before the Committee. She <sup>would be</sup> ["will be" stricken out] swallowed up. He had rather submit to a monarch, to a despot, than to such a fate. ["On his return" stricken out] He would not only oppose the plan here but on his return home do everything in his power to defeat it there.

M<sup>r</sup> Wilson. hoped ["that" stricken out] if the Confederacy should be dissolved, that a majority, that a minority of the States would unite for their safety. He entered elaborately into the defence of a proportional representation, stating for his first position that as all authority was derived from the people, equal numbers of people ought to have an equal n<sup>o</sup> of representatives, and different numbers of people different numbers of representatives. This principle had been improperly violated in the Confederation, owing to the urgent circumstances of the time. As to the case of A. & B, stated by M<sup>r</sup> Patterson, he observed that in districts as large ["at" stricken out] as the States, the number of people was the

best ["of" stricken out] measure of their comparative wealth. Whether therefore wealth or numbers were to form the ratio it would be the same. Mr P. admitted ["number" stricken out] persons, not property to be the measure of suffrage. Are not the citizens of Pen<sup>a</sup> equal to those of N. Jersey? does it require 150 of the former to balance 50 of the latter? Representatives of different districts ought clearly to hold the same proportion to each other, as their respective constituents hold to each other. If the J small States will not confederate on this plan, Pen<sup>a</sup> & he presumed some other States, would not confederate on any other. We have been told that each State being sovereign, all are equal. So each man is naturally a sovereign over himself, and all men are therefore naturally equal. Can he retain this ["equality<sup>equality</sup> sovereignty" stricken out] when he becomes a member of civil ["Society" stricken out]<sup>Government</sup>? He can not. As little can a Sovereign State, when it becomes a member of a federal ["Society" stricken out]<sup>Government</sup>. If N. J. will not part with her Sovereignty it is in vain to talk of Gov<sup>t</sup>. A new partition of the States is desireable, but evidently & totally impracticable.

Mr Williamson, illustrated the cases by a comparison of the different States, to Counties of different sizes within the same State; observing that proportional representation was admitted to be just in the latter case, and could not therefore be fairly contested in the former.

The question being about to be put Mr Patterson ["desired"<sup>hoped</sup> stricken out]<sup>thought</sup> that as so much depended on it, it might be best to postpone the decision till tomorrow, which was done nem. con—

The Com<sup>s</sup>. rose ["& Adj<sup>d</sup>" stricken out] & the House adjourned.

from Georgia  
Mr Abraham Baldwin took his Seat.  
Monday, June 11<sup>th</sup> In Committee of the Whole.

The clause concerning the rule of suffrage in the nat<sup>l</sup> Legislature <sup>on Saturday.</sup> was postponed was resumed.

Mr Sherman proposed that the proportion of suffrage in the 1<sup>st</sup> branch should be according to the <sup>respective</sup> numbers of free inhabitants; and that in the second branch or Senate, each State should have one vote and no more. He said as the States would remain possessed of certain individual rights, each State ought to be able to protect itself: otherwise a few large States will rule the rest. The House of Lords <sup>in England</sup> he observed had certain particular rights under the Constitution, and hence they have an equal vote with the House of Commons that they may be able to defend their rights.

Mr Rutledge proposed that the proportion of suffrage in the 1<sup>st</sup> branch should be according to the quotas of contribution. The justice of this rule he said could not be contested. ["Mr" stricken out] Mr. Butler urged the same idea ["s" stricken out]: adding that money was power; and that the States ought to have weight in the Gov<sup>t</sup>.—in proportion to their wealth.

Mr King & Mr Wilson<sup>\*</sup> <sup>in order to bring the question to a point</sup> moved "that the right of suffrage <sup>the first branch of</sup> in the national Legislature ought not to be according the rule established in the articles of Confederation, but according to some equitable ratio of representation". The clause so far as it related to ["the" stricken out] suffrage in the first branch was postponed in order to consider this motion: ["Massach<sup>ts</sup>" stricken out]

Mr Dickenson contended for the actual <sup>in the first branch</sup> contributions of the States as the rule of their representation & suffrage. By thus connecting the interest of the States with their duty, the latter would be sure to be performed.

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In the printed Journal Mr Rutledge is ["stated to" stricken out] named as the seconder of the motion.

M<sup>r</sup> King remarked that it was uncertain what mode might<sup>be</sup> used in levying a national revenue; but that it was probable, imports would be one source of it. If the actual contributions were to be the rule the non-importing States, as Conn<sup>t</sup> & N. Jersey, ["for whose relief" stricken out] w<sup>d</sup> be in a bad situation indeed. It might so happen that they w<sup>d</sup> have no representation. This situation of particular States had been always one powerful argument in favor of the 5 Per C<sup>t</sup> impost.

["On the question for agreeing to M<sup>r</sup> Kings & M<sup>r</sup> Wilson's motion, Mass<sup>ts</sup> ay. Conn<sup>t</sup> ay. N. Y. no. N. J. no. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup> Va<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

["Note. before the question was put Doc<sup>r</sup> Franklin observed that he had thrown his ideas on this subject on<sup>a</sup> paper which M<sup>r</sup> Wilson read to the Committee [illegible words] in the words following," stricken out]

The question being ab<sup>t</sup>. to be put Doc<sup>r</sup> Franklin s<sup>d</sup>. he had thrown his ideas of the matter on<sup>a</sup> paper w<sup>h</sup>. M<sup>r</sup>. Wilson read to the Committee in the words following—

M<sup>r</sup> Chairman

It has given me great pleasure to observe that till this point, the proportion of representation, came before us, our debates were carried on with great coolness & temper. If any thing of a contrary kind, has on this occasion appeared. I hope it will not be repeated; for we are sent here to consult not to contend, with each other; and declarations of a fixed opinion, and of determined resolution, never to change it, neither enlighten nor convince us. Positiveness and warmth on one side, naturally beget their like on the other; and tend to create and augment discord & division in a great concern, wherein harmony & Union are extremely necessary to give weight to our Councils, and render them effectual in promoting & securing the common good.

I must own that I was originally of opinion it would be

better if every member of Congress, or our national Council, were to consider himself rather as a representative of the whole, than as an Agent for the interests of a particular State; in which case the proportion of members for each State would be of less consequence, & it would not be very material whether they voted by States or individually. But as I find this is not to be expected, I now think the number of Representatives should bear some proportion to the number of the Represented; and that the decisions sh<sup>d</sup> be by the majority of members, not by the majority of States. This is objected to from an apprehension that the greater States would then swallow up the smaller. I do not at present clearly see what advantage the greater States could propose to themselves by swallowing the smaller, and therefore do not apprehend they would attempt it. I recollect that in the beginning of this Century, when the Union was proposed of the two Kingdoms, England & Scotland, the Scotch Patriots were full of fears, that unless they had an equal number of Representatives in Parliament, they should be ruined by the superiority of the English. They finally agreed however that the different proportions of importance in the Union, of the two Nations should be attended to, whereby they were to have only forty members in the House of Commons, and only sixteen in the House of Lords; A very great inferiority of numbers! And yet to this day I do not recollect that any thing has been done in the Parliament of Great Britain to the prejudice of Scotland; and whoever looks over the lists of public officers, Civil & military of that nation will find I believe that the North Britons enjoy at least their full proportion of emolument.

But, Sir, in the present mode of voting by States, it is

equally in the power of the lesser States to swallow up the greater; and this is mathematically demonstrable. Suppose for example, that 7 smaller States had each 3 members<sup>in</sup> the House, and the 6 larger to have one with another 6 members; and that upon a question, two members of each smaller State should be in the affirmative and one in the Negative, they will make

Affirmatives . . . . 14 . . . . Negatives 7.

And that all the larger States should

be unanimously

in the negative, they would

make . . . . . Negatives 36

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In all . . . 43

It is then apparent that the 14 carry the question against the 43. and the minority overpowers the majority, contrary to the common practice of Assemblies in all Countries and Ages.

The greater States Sir are naturally as unwilling to have their property left in the disposition of the smaller, as the smaller are to have theirs in the disposition of the greater. An honorable gentleman has, to avoid this difficulty, hinted a proposition of equalizing the States. It appears to me an equitable one, and I should, for my own part, not be against such a measure, if it might be found practicable. Formerly, indeed, when almost every province had a different Constitution, some with greater others with fewer privileges, it was of importance to the borderers when their boundaries were contested, whether by running the division lines, they were placed on one side or the other. At present when such differences are done away, it is less material. The Interest of a State is made up of the interests of its individual members.



If they are not injured, the State is not injured. Small States are more easily well & happily governed than large ones. If therefore in such inequal division, it should be found necessary to diminish Pennsylvania, I should <sup>not</sup> be averse to the giving a part of it to N. Jersey, and another to Delaware. But as there would probably be considerable difficulties in adjusting such a division; and however equally made at first, it would be continually varying by the augmentation of inhabitants in some States, and their fixed proportion in others; and thence frequent occasion["s" stricken out] for new divisions, I beg leave to propose for the consideration of the Committee another mode which appears to me, to be as equitable, more easily carried into practice, and more permanent in its nature.

Let the weakest State say what proportion of money or force it is able and willing to furnish for the general purposes of the Union.

Let all the others oblige themselves to furnish each an equal proportion.

The whole of these joint supplies to be absolutely in the disposition of Congress.

The Congress in this case to be composed of an equal number of Delegates from each State.

And their decisions to be by the majority of individual members voting.

If these joint and equal supplies should on particular occasions not be sufficient, Let Congress make requisitions on the richer and more powerful States for farther aids, to be voluntarily afforded, leaving to each State the right of considering the necessity and utility of the aid desired, and of giving more or less as it should be found proper.

This mode is not new, it was formerly practiced with success by the British Government with respect to Ireland and the Colonies. We sometimes gave even more than they expected, or thought just to accept; and in the last war carried on while we were united, they gave us back in five years a million Sterling. We should probably have continued such voluntary contributions, whenever the occasions appeared to require them for the common good of the Empire. It was not till they chose to force us, and to deprive us of the merit and pleasure of voluntary contributions that we refused & resisted. Those contributions however were to be disposed of at the pleasure of a Government in which we had no representative. I am therefore persuaded, that they will not be refused to one in which the Representation shall be equal

My learned colleague [M<sup>r</sup> Wilson] has already mentioned that the present method of voting by States, was submitted to originally by Congress, under a conviction of its impropriety, inequality, and injustice. This appears in the words of their Resolution. It is of Sep<sup>r</sup> 6. 1774. The words are

“Resolved that in determining questions in this  
 “Cong<sup>s</sup> each Colony or province shall have one vote:  
 “the Cong<sup>s</sup> not being possessed of or at present able  
 “to procure materials for ascertaining the importance  
 “of each Colony.”

On the question for agreeing to M<sup>r</sup> Kings and M<sup>r</sup> Wilsons motion. it passed in the affirmative Mass<sup>ts</sup> ay. C<sup>t</sup> ay. N. Y no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

It was then moved by M<sup>r</sup> Rutledge 2<sup>d</sup> by M<sup>r</sup> Butler to add  
 “equitable ratio of representation” at the  
 to the words end of the motion just agreed to, the words  
 “according to the quotas of <sup>Contribution.</sup> Contribution On motion of ¶ M<sup>r</sup>  
Wilson seconded by M<sup>r</sup> C. Pinckney, [“moved to” stricken

<sup>this was</sup> out] postponed; in order to add, after, after the words "equitable ratio of representation" the words following "in proportion to the whole number of white & other free Citizens & inhabitants of every age sex & condition including those bound to servitude for a term of years and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State." this being the rule in the Act of Congress agreed to by eleven States, for apportioning [<sup>quotas</sup> "the taxes" stricken out] of revenue on the States. [<sup>and requiring a census only every 5—7, or 10 years.</sup> "Mr. Gerry thought property not the rule of representation. Why then sh<sup>d</sup>. the blacks, who were property in ["of" stricken out] the South, be in the rule of representation more than the cattle & horses of the North

<sup>On the question.</sup> Mass: Con: N. Y. Pen: Mary<sup>d</sup> Virg<sup>a</sup> N. C. S. C. and Geo: <sup>were</sup> ["being" stricken out] in the affirmative: N. J. & Del: in the negative.

<sup>seconded by Mr. C. Pinkney in place of this last motion</sup> ["Mr Wilson then moved to fix the equitable rule of representation in the 1<sup>st</sup> branch by [<sup>adopting — ing the rule in</sup> 'referring to' stricken out] the act of Cong<sup>s</sup> agreed to by Eleven States, which proposes that the quotas of the States should be apportioned to their [<sup>'free' stricken out]</sup> number of inhabitants, rating 5 slaves as equal to 3 freemen, and exclu<sup>ding</sup> Indians not taxed

<sup>adding after the words "equitable ratio of representation"</sup> ["On the question for [<sup>'making the number of inhabitants</sup> the words "in proportion to the whole number of white and other free Citizens and inhabitants of as thus rated the rule of representation in the 1<sup>st</sup> branch', every age sex and condition, including those bound to servitude for a term of years, and three stricken out], fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes in each State."

[<sup>V.</sup> "Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. [<sup>'J'</sup> stricken out]: ay. N. J. no.\* P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. S. C. ay. N. C. ay. Geo. ay." stricken out]

M<sup>r</sup> Sherman moved that a question be taken whether each State shall have [<sup>one</sup> "an equal" stricken out] vote in the 2<sup>d</sup>

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[\*\*In the printed Journal N. Jersey is ay" stricken out]

branch. Every thing he said depended on this. The smaller States would never agree to the plan on any other principle, <sup>than an</sup> equality of suffrage in this branch. <sup>Mr. Elsworth seconded the motion.</sup> On the question for <sup>one</sup> allowing each State ["an equal" stricken out] vote in the 2<sup>d</sup> branch. ["Mr Elsworth 2<sup>d</sup> the motion." stricken out]

Mass<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

Mr. Wilson & Mr. Hamilton moved that the right of suffrage in the 2<sup>d</sup> branch ought to be according to the same rule as in the 1<sup>st</sup> branch 1<sup>st</sup> branch.

On this question for making the ratio of representation the same in the 2<sup>d</sup> as in 1<sup>st</sup> branch <sup>it passed in the affirmative:</sup>

Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

<sup>Resol: 11.</sup> ["Clause" stricken out] <sup>being</sup> for guarantying Republican Gov<sup>t</sup> & territory to each State considered: the words, "or partition" were, on motion of Mr. Madison added, after the words "voluntary junction": Mas. N. Y. P. V<sup>a</sup>. N. C. S. C. G. ay Con: N. J. Del. M<sup>d</sup>. - - - no.

Mr Read disliked the idea of guarantying territory. It abetted the idea of distinct States w<sup>ch</sup> <sup>no</sup> would be a perpetual source of discord. There can be <sup>one</sup> cure for this evil but, in doing away States altogether and uniting them all into great Society. ["The" effaced]

<sup>made in</sup> ["The" stricken out] Alterations. <sup>having been,</sup> ["made in clause, (com- republican Constition & its existing laws ought to be guaranteed to each State by the U. States" ["Resolution 16 in" stricken out] ["from" stricken out] June 14 pare its original State with the Report of Count<sup>e</sup> of whole <sup>was</sup> ) was made nem con and" stricken out] the whole ["clause then" stricken out] agreed to nem. con.

<sup>Resolution 13.</sup> ["Clause" stricken out] <sup>being</sup> for amending the national Con- stitution hereafter without consent of Nat<sup>l</sup> Legislature <sup>con-</sup> sidered, several members did not see the necessity of the <sup>Resolution</sup> ["clause" stricken out] at all, nor the propriety of making the consent of the Nat<sup>l</sup> Legisl. unnecessary.

Col. Mason urged the necessity of such a provision. The

plan now to be formed will certainly be defective, as the Confederation has been found on trial to be. Amendments therefore will be necessary, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence. It [~~"could"~~ stricken out] would be improper to [~~"to"~~ stricken out] require the consent of the Nat<sup>l</sup> Legislature, because they may abuse their power, and refuse their consent on that very account. The opportunity for such an abuse, may be the fault of the Constitution calling for amendm<sup>t</sup>

Mr Randolph [~~"seconded"~~ stricken out] <sup>enforced</sup> these arguments.

The words, "without requiring the consent of the Nat<sup>l</sup> Legislature" were postponed. The other provision in the clause passed nem. con.

[~~"Clause"~~ stricken out] <sup>Resolution 14.</sup> requiring oaths from the [~~"State officers &c"~~ stricken out] <sup>members of the State Govts.</sup> to observe the Nat<sup>l</sup> Constitution <sup>being</sup> & laws, considered.

Mr Sherman opposed it as unnecessarily intruding into the State jurisdictions.

Mr Randolph considered <sup>it</sup> as necessary to prevent that competition between the National Constitution & laws & those of the particular States, which had already been felt. The officers of the States are already under oath to the States. To preserve [~~"their"~~ stricken out] a due impartiality they ought to be equally bound to the Nat<sup>l</sup> Gov<sup>t</sup>. The Nat<sup>l</sup> authority needs every support we can give it. The Executive & Judiciary of the States, notwithstanding their nominal independence on the State Legislatures are in fact, so dependent on them, that unless they be brought under some tie <sup>to</sup> the Nat<sup>l</sup> system, they will always lean too much to the State systems, whenever a contest arises between the two.

Mr Gerry did not like the clause. He thought there was as much reason for requiring an oath of fidelity to the States, from Nat<sup>l</sup> officers, as vice. versa.

Mr Luther Martin moved to strike out the <sup>words</sup> requiring such an oath from the State Officers <sup>viz "within the several States."</sup> observing that if the new oath should be contrary to that already taken <sup>by them</sup> it would be improper; if ["not" stricken out] <sup>coincident</sup> the oaths already taken ["which will" stricken out] will be sufficient.

On the question for striking out as proposed by Mr L. Martin

Mass<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

Question on whole <sup>Resolution</sup> ["clause" stricken out] as proposed by Mr. Randolph;

Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. no. N. J. no. P<sup>a</sup> aye. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

Com<sup>e</sup> rose & House adj<sup>d</sup>

Tuesday June 12<sup>th</sup> in Committee of whole.

The Question taken on <sup>Resolution 15</sup> ["the last clause" stricken out], to wit, referring the new system to the people of the States for <sup>it passed in the affirmative</sup> ratification : Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. no. N. J. no. P<sup>a</sup> ay.\* Del. div<sup>d</sup> M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

Mr Sharman & Mr Elsworth moved to fill the blank <sup>left in the 4th. Resolution</sup> for the periods of electing the members of the first branch with <sup>the words</sup> the words "every year." Mr Sharman observing that he did it in order to bring on <sup>some</sup> ["the" stricken out] question.

Mr Rutledge proposed "every two years."

Mr Jennifer prop<sup>d</sup> "every three years." observing that the

\* Pennsylvania omitted in the printed Journal. The vote is there entered as of June 11<sup>th</sup>.



too great frequency of elections rendered the people indifferent to them, and made the best men unwilling to engage in so precarious a service.

Mr Madison seconded the motion for three years. Instability is the great <sup>one of</sup> vices of our republics, to be remedied. Three years will be necessary, in a Government so extensive, ["for the to induce" illegible word "the extremity to learn the interests" stricken out] for members to form any knowledge of the various interests of the States to which they do not belong, and of which they can know but little from the situation and affairs of their <sup>own</sup> ["particular particular State," stricken out] <sup>will</sup> One year ["would" stricken out] be almost consumed in preparing for and traveling to & from the seat of national business.

Mr Gerry. The people of New England will never give up the point of annual elections. they know of the transition made in England from triennial to Septennial elections, and will consider such an innovation here as the prelude to a like usurpation. He considered annual Elections as the only defence of the people ag<sup>t</sup> tyranny. He was as much ag<sup>t</sup> a triennial House as ag<sup>t</sup> a hereditary Executive.

Mr Madison. observed that if the opinions of the people were to be our guide, it w<sup>d</sup> be difficult to say what course we ought to take. No member of the Convention could say what the opinions of his Constituents were at this time; much less could he say what they would think if possessed of the information & lights possessed by the members here; & still less what would be their way of thinking 6 or 12 months hence. We ought to consider what was right & necessary in itself for the attainment of a proper Govern<sup>t</sup>. A plan adjusted to this idea will recommend itself—The

respectability of this convention will give weight to their recommendation of it. Experience will be constantly urging the adoption of it. and all the most enlightened & respectable citizens will be its advocates. Should we fall short of the necessary & proper point, this influential class of citizens <sup>in opposition to them can be gained to it from the unreflecting multitude.</sup> will be turned against the plan, and little support <sup>^</sup> [illegible words "gained to it from the unreflecting multitude" stricken out]

Mr Gerry repeated his opinion that it was necessary to ["consult the opinion" stricken out] consider what the people would approve. This had been the policy of all Legislators. If the reasoning of Mr Madison were just, and we supposed a limited Monarchy the best form in itself, we ought to recommend <sup>it</sup>, tho' the genius of the people was decidedly adverse to it, and ["as" stricken out] having no hereditary distinctions among us, we were destitute of the essential materials for such an innovation.

On the question for triennial election of the 1<sup>st</sup> branch

Mass. no. [Mr King ay.] Mr Ghorum wavering. Con<sup>t</sup> no. N. Y. ay. N. J. ay. Pa<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. ay.

The <sup>words</sup> ["section" stricken out] requiring members of <sup>ye.</sup> 1<sup>st</sup> branch to be of the age of <sup>were</sup> <sup>Maryland alone, no</sup> years struck out ["10 ays 1 no." stricken out] <sup>being</sup> <sup>The words</sup> "liberal compensation for members" <sup>^</sup> consid<sup>d</sup> Mr Madison moves to insert the words "& fixt?" He observed that it would be improper to leave the members of the Nat<sup>l</sup> <sup>legislature</sup> to be ["paid" stricken out] provided for by the State Legisl<sup>s</sup> because it would create an improper dependence; and to leave them to regulate their own wages, was an indecent thing, and might in <sup>one.</sup> time prove a dangerous [illegible word stricken out] He thought wheat or some other ["standard

weight" stricken out] <sup>of which</sup> <sup>throughout a reasonable period precedin'g</sup> article the average price might be settled in some convenient mode, would form a proper standard.

Col. Mason seconded the motion; adding that it would be improper for ["an" stricken out] other reasons to leave the ["provision to be made" stricken out] wages to be regulated by the States. 1. the different States would make different provision for their representatives, and an inequality would be felt among them, whereas he thought they ought to be in all respects equal. 2. the parsimony of the States might reduce the provision so low that as had already happened in choosing delegates to Congress, the question would be ["come, who" stricken out] not who were most fit to be chosen, but who were most willing to serve.

On the question for inserting the words "and fixt."

Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay.

Doct<sup>r</sup> Franklyn said he approved of the amendment just made for rendering the salaries as <sup>fixed</sup> as possible; but disliked the word "liberal." He would <sup>prefer</sup> <sup>^</sup> the word moderate if it was necessary to substitute any other. He remarked the tendency ["in all cases, of abuses to" stricken out] of abuses in every case, to grow of themselves when once begun. and related very pleasantly the progression in ecclesiastical benefices, from the first departure from the gratuitous [<sup>provision for</sup> "practice of" stricken out] the Apostles, to the mock establishment of the papal system. The word "liberal" was struck out nem. con.

On the motion of M<sup>r</sup> Pierce, ["words were inserted providing" stricken out] that the wages should be paid out of the National Treasury, Mass<sup>ts</sup> ay. C<sup>t</sup> no. N. Y. no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. G. ay.

Question on the clause relating to term of service & compensation of 1<sup>st</sup> branch

Mass<sup>ts</sup> ay. C<sup>t</sup> no. N. Y. no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay.

On a question for striking <sup>out</sup> "the ineligibility of members of Nat<sup>l</sup> Legis: to State Offices."

Mass<sup>ts</sup> [<sup>div<sup>d</sup></sup> "ay." stricken out] Con<sup>t</sup> ay. N. Y. ay. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. no

On the question for agreeing to <sup>the clause ["Resolution" stricken out]</sup> ["the clause" stricken out] as amended.

Mass<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

On a question for making Members of Nat<sup>l</sup> legislature ineligible to any Office under the Nat<sup>l</sup> Gov<sup>t</sup> for the term of 3 years after ceasing to be members.

Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

On the question for such ineligibility for one year.

Mass<sup>ts</sup> ay. C<sup>t</sup> ay. N. Y. no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> div<sup>d</sup>  
V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no.

On question for striking <sup>moved by Mr. Pinckney</sup> <sup>out</sup> "incapable of re-election into 1<sup>st</sup> branch of Nat<sup>l</sup> Legisl. for            years and subject to recall" ag<sup>d</sup> to nem. con.

On question for striking <sup>out from Resol: 5</sup> the words requiring members of the Senatorial branch to be of the age of            years [<sup>at least</sup> "or" stricken out]

Mass<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. no. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. div<sup>d</sup> S. C. no. Geo. div<sup>d</sup>

On the question for filling the blank with 30 years as the qualification; it was agreed to.

Mass<sup>ts</sup> ay. C<sup>t</sup> no. N. Y. ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no

Mr Spaight moved to fill the blank for the duration of the appointments to the 2<sup>d</sup> branch of the National <sup>Legislature</sup> with the words "7 years.

Mr Sherman thought 7 years too long. He grounded his opposition he said on the principle that if they did their duty well, they would be reelected. And if they acted amiss, an earlier opportunity should be allowed for getting rid of them. He preferred 5 years which w<sup>d</sup> be between the terms of 1<sup>st</sup> branch & of <sup>the executive</sup> ["Exe" stricken out].

Mr Pierce proposed 3 years. 7 years would raise an alarm. Great mischiefs had arisen in England from their septennial act which was reprobated by most of their patriotic Statesmen.

Mr Randolph was for the term of 7 years. The Democratic licentiousness of the State Legislatures proved the necessity of a firm Senate. The object of this 2<sup>d</sup> branch is to controul the democratic branch of the Nat<sup>l</sup> Legislature. ["If" written upon "as"] it be not a firm body, the other branch being more numerous, and coming immediately from the people, will overwhelm <sup>it</sup> ["them" stricken out]. The Senate of Maryland constituted on like principles had been scarcely able to stem the popular torrent. No mischief can be apprehended, as the concurrence of the other branch, and in some measure, of the Executive, will in all cases be necessary. A firmness & independence may be the more necessary <sup>also</sup> in this branch, as it ought to guard the Constitution ag<sup>st</sup> encroachments of the Executive who will be apt to form combinations with the demagogues of the popular branch.

Mr Madison, considered 7 years as a term by no means too long. What we wished was to give to the Gov<sup>t</sup> that stability which was every where called for, and which the enemies of <sup>the</sup> Republican form alleged to be inconsistent with its nature.

He was not afraid of giving too much stability by the term of seven years. His fear was that the popular branch would still be too great an overmatch for it. It was to be much lamented that we had so little direct <sup>experience</sup> ["experience" stricken out] to guide us. The Constitution of <sup>Maryland</sup> ["M<sup>d</sup>" stricken out] was the only one that bore any analogy to this part of the plan. In no instance had the Senate of Mary<sup>d</sup> created just suspicions of danger from it. In some instances perhaps it ["might" stricken out] may have erred by yielding to the H. of Delegates. In every instance ["its" stricken out] <sup>of their</sup> opposition to the measures of the H. of D. they had had with them the suffrages of the most enlightened and impartial people of the other States as well as of their own. In the States where the Senates were chosen in the same manner as the other branches, of the Legislatures, and held their seats for 4 years, the institution was found to be no check whatever ag<sup>st</sup> the <sup>instability of the other branches.</sup> [illegible words stricken out] He conceived it to be of great importance that a stable & firm Gov<sup>t</sup> organized in the republican form should be held out to the people. If this be not done, and the people be left to judge of this species of Gov<sup>t</sup> by y<sup>e</sup> operations of the defective systems under which they now live, it is much to be feared ["their disgust" stricken out] the time is not distant when, in universal disgust, they will renounce the blessing which they have purchased at so dear a rate, and be ready for any change that may be proposed to them. ["He was a friend to Republican He" stricken out]

On the question for "seven years", as the term ["of service" stricken out] for the 2<sup>d</sup> branch

Mass<sup>ts</sup> divided. (M<sup>r</sup> King. M<sup>r</sup> Ghorum ay—M<sup>r</sup> Gerry, M<sup>r</sup> Strong, no.) Con<sup>t</sup> no. N. Y. div<sup>d</sup> N. J. ay. P<sup>a</sup> ay Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.



& Mr. Rutledge

Mr Butler proposed that the members of the 2<sup>d</sup> branch should be entitled to no salary or [<sup>compensation</sup> "emolument" stricken out] for their services. on the ques-  
tion

[It is probable ye votes here turned chiefly on the idea that if the salaries were not here provided for, the members would be paid by their respective States] this note for the bottom margin.

Mas<sup>rs</sup> div<sup>d</sup> Con<sup>t</sup> ay. N. Y. no. N. J. no. P. no. Del. ay. M<sup>d</sup> no V<sup>a</sup> no. N. C. no. S. C. ay. Geo. no.  
["adj<sup>d</sup>" stricken out]

It was then moved & agreed that the clauses respecting the stipends & ineligibility of the [<sup>2<sup>d</sup></sup> "first" stricken out] branch be the same as, of the ["1<sup>st</sup>," written upon "2<sup>d</sup>,"] branch: Con:  
disagreeing to the ineligibility.

It was moved & 2<sup>del</sup>, to alter Resol: 9. so as to read "that the jurisdiction of the supreme tribunal shall be to hear & determine in the dernier resort, all piracies, felonies &c"

It was moved & 2<sup>del</sup>, to strike out "all piracies & felonies on the high seas," which was agreed to.

It was moved & agreed to strike out "all captures from an enemy".

It was moved & agreed to strike out "other States" and insert "two distinct States of the Union"

It was moved & agree to postpone ["Resol" stricken out] the consideration of Resolution 9. relating to the Judiciary:

The Com<sup>s</sup>, then rose & the House adjourned

[The following, from, "It was then moved", to and including, "& the House adjourned", is written upon a slip of paper pasted on the page, covering up the word, "adj<sup>d</sup>," which had been stricken out.]

Wedn Wednesday June 13. in Committee of the whole

Resol: 9. being resumed

The latter parts of the clause relating to the jurisdiction of the Nat<sup>l</sup> tribunals, <sup>was</sup> struck out new. con in order to leave full room for their organization.

["Mr Pinkney proposed that the National Judiciary should be appointed by the Nat<sup>l</sup> Legislature. Mr Sherman seconds him." stricken out]

Mr. Randolph & Mr. Madison, then moved the following resolution respecting a National Judiciary, viz "that the ["national" stricken out] jurisdiction of the national Judiciary shall extend to cases, which respect the collection of the National revenue, impeachments of any national officers, and questions which involve the national peace and harmony" which was agreed to.

Mr. Pinkney & Mr. Sherman moved to insert after the words "one supreme tribunal" the words "the Judges of which to be appointed by ["the 2<sup>d</sup> branch of" stricken out] the national Legislature" ["which was agreed to" stricken out]

[The following, from, "Mr. Randolph", to and including, "the national Legislature, ["which was agreed to," stricken out]", is written upon a slip of paper which was attached to the original sheet so that it covered part of the words immediately preceding, which had first been stricken out.]

Mr Madison, objected to an app<sup>t</sup> by the whole Legislature. Many of them were incompetent<sup>Judges</sup> of the requisite qualifications. They were too much influenced by their partialities. The candidate who was present, who had displayed a talent for business in the legislative field, who had perhaps assisted ignorant members in business of their own, or of their Constituents, or used other winning means, would without any of the essential qualifications for an expositor of the laws prevail over a competitor not having these recommendations, but possessed of every necessary accomplishment. He proposed that the appointment should be made by the Senate, which as a less numerous & more select body, would be more ["likely to" stricken out] competent judges, and which was sufficiently numerous to justify such a confidence in them.

Mr Sharman & Mr Pinkney withdrew their motion, and the app<sup>t</sup> by<sup>the</sup> Senate was ag<sup>d</sup> to nem con.

Mr Gerry. moved to restrain the Senatorial branch from originating money bills. The other branch was more immediately the representatives of the people, and it was a maxim that the people ought to hold the purse-strings. If the Senate should be allowed to originate such bills, they w<sup>d</sup> repeat the experiment, till chance should furnish a sett of representatives in the other branch who will fall into their snares.

Mr Butler saw no reason for such a discrimination. We were always following the British Constitution when the reason of it did not apply. There was no analogy between the Ho of Lords and the body proposed to<sup>be</sup> established. If the Senate should be degraded by any such discriminations, the best men would be apt to decline serving in it in favor of the other branch. And it will lead the latter into the practice of [illegible word stricken out] tacking other clauses to money bills.

[“& Mr. King” stricken out]  
Madison

Mr [“M” stricken out] observed that the Commentators on the Brit: Const: had not yet agreed on the [“principle which”<sup>reason of</sup> stricken out] the restriction on the H. of L. in money bills. Certain it was there could be <sup>no similar</sup> reason in the case before us. The Senate would <sup>be</sup> the representatives of the people as well as the 1<sup>st</sup> branch. If they s<sup>d</sup> have any dangerous influence over it, they would easily prevail on some member of the latter to originate the bill they wished to be passed. As the Senate would be generally a more capable sett of men, it w<sup>d</sup> be wrong to disable them from any preparation of the business, especially of that which was most important, and in our republics, worse prepared than any other. The Gentleman in pursuance of his principle ought to carry the restraint to the amendment; as well as the originating of money bills. Since, an addition of a given sum w<sup>d</sup> be equivalent to a <sup>distinct</sup> proposition of it.

[“Mr King reinforced the argu<sup>ts</sup>” stricken out]

Mr King differed from Mr Gerry, and concurred in the objections to the proposition.

Mr Read favored the proposition, but would not extend [“it” stricken out]<sup>the restraint</sup> to the case of amendments.

Mr Pinkney thinks the question premature. If the Senate sh<sup>d</sup> be [“composed of principle of”<sup>formed on the same</sup> stricken out] proportional representation as it stands at present, they <sup>s<sup>d</sup></sup> have equal power, otherwise if a different principle s<sup>d</sup> be introduced.

Mr Sherman. As both branches must concur, there can be no danger [“whether”<sup>whichever way the</sup> stricken out] Senate be formed [“in another way” stricken out]. We establish two branches in order to get more wisdom, which is particularly needed in the finance business— The Senate bear their share of the taxes,

and are also the representatives of the people. What a man does by another, he does by himself is a maxim. In Con<sup>t</sup> both branches <sup>can</sup> originate in all cases, and it has been found safe & convenient. ["If" stricken out] Whatever might have been the reason of the rule as to The H. of Lords, it is clear <sup>that</sup> ["they" stricken out] no good arises from it now even there.

Genl. Pinkney. This distinction prevails in S. C. & has been <sup>a</sup> source of pernicious disputes between y<sup>e</sup>. 2 branches. The constitution is now evaded, <sup>Senate to the other House.</sup> of amendments handed from y<sup>e</sup>. <sup>by informal schedules</sup> <sup>^</sup>

Mr. Williamson wishes for a question chiefly to prevent re-discussion. The restriction will have one advantage, it will oblige some member in lower branch to move, & people can then mark him. On the question for excepting money bills as prop<sup>d</sup>. by Mr. Gerry. Mas. no. Con<sup>t</sup>. no. N. Y. ay. N. J. no. Del. ay. Md. no. Va. ay. N. C. no. S. C. no. Geo. no.

Committee rose & Mr. Ghorum made report, which was postponed till tomorrow, to give an opportunity for other plans to be proposed. the report was in the words following.

June 13

#### Report of the Committee of Whole on Mr Randolphs propositions

1. Res<sup>d</sup> that it is the opinion of this Committee that a National Govern<sup>t</sup> ought to be established, ["g," stricken out] consisting of a supreme Legislative, Executive & Judiciary.

2. Resol<sup>d</sup> that the National Legislature ought to consist of two branches.

3. Res<sup>d</sup> that the members of the first branch of the National Legislature ought to be elected by the people of the several States for the term of three years, to <sup>^</sup> receive fixed Stipends by which they may be compensated for the devotion of their time to public service, to be paid out of the National Treasury: to be ineligible to any office established by a particular State, or under the authority of the U. States, (except <sup>functions of the</sup> those peculiarly belonging to the first branch), during the term of service, and under the national Government for the space of one year after its expiration.

4. Res<sup>d</sup> that the members of the second branch of the Nat<sup>l</sup> ["Government" stricken out] Legislature ought to be chosen

by the individual Legislatures, to be of the age of 30 years at least, to hold their offices for a term sufficient to ensure their independency, namely, seven years, to receive fixed stipends by which they may be compensated for the devotion of their time to public service to be paid out of the National Treasury; to be ineligible to any office established by a particular State, or under the authority of the U. States, (except those peculiarly belonging to the functions of the second branch) during the term of service, and under the Nat<sup>l</sup> Gov<sup>t</sup> for the space of one year after its expiration.

5. Res<sup>d</sup> that each branch ought to possess the right of originating Acts

6. Res<sup>d</sup> that the Nat<sup>l</sup> Legislature ought to be empowered to enjoy the Legislative rights vested in Cong<sup>s</sup> by the Confederation, and moreover to legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union, or any treaties subsisting under the authority of the Union.

7. Res<sup>d</sup> that the rights of suffrage in the 1<sup>st</sup> branch of the National Legislature, ought not to be according to the rule established in the articles of confederation but according to some equitable ratio of representation, namely, in proportion to the whole number of white & other free citizens & inhabitants, of every age sex and condition, including those bound to servitude for a term of years, & three fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes in each State:

8. Resolved that the right of suffrage in the 2<sup>d</sup> branch of

the National Legislature ought to be according to the rule established for the first.

9. Resolved that a National Executive be instituted to consist of a single person, to be chosen by the Nat<sup>l</sup> Legislature for the term of seven years, with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for—to be ineligible a second time, & to be removeable on impeachment and conviction of malpractices or neglect of duty—to receive a fixed stipend by which he may be compensated for the devotion of his time to public service to be paid out of the national Treasury.

10. Resol<sup>d</sup> that the nat<sup>l</sup> [<sup>“Legislature”</sup> stricken out] Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed <sup>unless</sup> by two thirds of each branch of the National Legislature

11. Resol<sup>d</sup> that a Nat<sup>l</sup> Judiciary be established, to consist of one supreme tribunal, the Judges of which to be appointed by the 2<sup>d</sup> branch of the Nat<sup>l</sup> Legislature, to hold their offices during good behaviour, & to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12. Resol<sup>d</sup> that the Nat<sup>l</sup> Legislature be empowered to appoint inferior Tribunals.

13. Res<sup>d</sup> that the jurisdiction of the Nat<sup>l</sup> Judiciary shall extend to all cases [<sup>“to”</sup> stricken out] which respect the collection of the Nat<sup>l</sup> revenue, impeachments of any Nat<sup>l</sup> Officers, and questions which involve the national peace & harmony.

14. Res<sup>d</sup> that provision ought to be made for the admission of States lawfully arising within the limits of the U. States, whether from a voluntary junction of Government & terri-



tory or otherwise, with the consent of a number of voices in the Nat<sup>l</sup> Legislature less than the whole.

15. Res<sup>d</sup> that provision ought to be made for the continuance of Congress and their authorities and privileges untill a given day after the reform of the articles of Union shall be adopted and for the completion of all their engagements.

16. Res<sup>d</sup> that a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States.

17. Res<sup>d</sup> that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary.

18. Res<sup>d</sup> that the Legislative, Executive & Judiciary powers within the several States ought to be bound by oath to support the articles of Union

19. Res<sup>d</sup> that the amendments which shall be offered to the confederation by the convention <sup>ought</sup> at a proper time or times after the approbation of Cong<sup>s</sup> ["ought" stricken out] to be submitted to an Assembly or Assemblies recommended by the several Legislatures to be expressly chosen by the people to consider and decide thereon.

Thursday June 14. In Convention

M<sup>r</sup> Patterson, observed to the Convention that it was the wish of several deputations, particularly that of N. Jersey, that further time might be allowed them to contemplate the plan reported from the Committee of the Whole, and to digest one purely federal, and contradistinguished from ["t" stricken out] that reported plan. He said they hoped to have such an one ready by tomorrow to be laid before the Convention: and the Convention adjourned that leisure might be given for the purpose.

Friday June 15<sup>th</sup> 1787.

M<sup>r</sup> Patterson, laid before the Convention the plan which he said several of the ["States" stricken out] deputations wished to be substituted in place of that proposed by M<sup>r</sup> Randolp. After some little discussion of the most proper mode of giving it a fair deliberation it was agreed that it should be referred to ["the" stricken out] a Committee of the Whole, and that in order to place the two plans in due comparison, the other should be recommitted. At the earnest desire of M<sup>r</sup> Lansing & some other gentlemen, it was also agreed that the Convention should not go into Committee of the whole on the subject till tomorrow, by which delay the friends of the plan proposed by M<sup>r</sup> Patterson w<sup>d</sup> be better prepared to explain & support <sup>it</sup> ["the same" stricken out], and all would have an opportunity of taking copies.—["N. B." stricken out] \*this plan had been concerted among the deputations or members thereof, from Con<sup>t</sup> N. Y. N. J. Del. and perhaps M<sup>r</sup> Martin from Mary<sup>d</sup> <sup>with them</sup> who made a common cause on different principles. Con<sup>t</sup> & N. Y. were ag<sup>st</sup> a departure from the principle of the Confederation, wishing rather to add a few new powers to Cong<sup>s</sup> than to substitute, a National Gov<sup>t</sup>. The States of N. J. & Del. <sup>^</sup>were opposed to a National Gov<sup>t</sup> because its patrons considered a proportional representation of the States as the basis of it. The eagourness displayed by the Members opposed to a Nat<sup>l</sup> Gov<sup>t</sup> from these different <sup>motives</sup> began now to produce serious anxiety for the result of the Convention.—M<sup>r</sup> Dickenson said to M<sup>r</sup> <sup>Madison</sup> ["M" stricken out] you see the consequence of pushing things too far. Some of the members from the small States wish for two branches in the General Legislature, and are friends to a

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\* ["See June 19<sup>th</sup> (by mistake there placed)" stricken out] \*the note in brackets for the margin

good National Government; but we would sooner submit to a [“France or any other” stricken out] foreign power, than [“n” written upon “t”] submit to be deprived of an equality of suffrage, in both branches of the legislature, and thereby be thrown under the domination of the large States.]

The propositions from N. Jersey moved by Mr Patterson were in the words following.

1. Res<sup>d</sup> that the articles of Confederation ought to be so revised, corrected & enlarged, as to render the federal Constitution adequate to the exigences of Government, & the preservation of the Union.

2. Res<sup>d</sup> that in addition to the powers vested in the U. States in Congress, by the present existing articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty on duties on all goods or merchandizes of foreign growth or manufacture, imported into any part of the U. States, by Stamps on paper, vellum or parchment, and by a postage on all letters or packages passing through the general post-Office, to be applied to such federal purposes as they shall deem proper & expedient; to make rules & regulations for the collection thereof; and the same from time to time, to alter & amend in such manner as they shall think proper: to pass Acts for the regulation of trade & commerce as well with foreign nations as with each other: provided that all punishments, fines, forfeitures & penalties to be incurred for contravening such acts rules and regulations shall be adjudged by the Common law Judiciarys of the State in which any offence contrary to the true intent & meaning of such Acts rules & regulations shall have been committed or perpetrated, with liberty of commencing in the first instance all suits & prosecutions for that purpose in the

superior Common law Judiciary in such State, subject nevertheless, for the correction of all errors, both in law & fact in rendering judgment, to an appeal to the Judiciary of the U. States

3. Res<sup>d</sup> that whenever requisitions shall be necessary, instead of the rule for making requisitions mentioned in the articles of Confederation, the United States in Cong<sup>s</sup> be authorized to make such requisitions in proportion to the whole number of white & other free citizens & inhabitants of every age sex and condition including those bound to servitude for a term of years & three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that if such requisitions be not complied with, in the time specified therein, to direct the collection thereof in the non complying States & for that purpose to devise and pass acts directing & authorizing the same; provided that none of the powers hereby vested in the U. States in Cong<sup>s</sup> shall be exercised without the consent of at least

States, and in that proportion if the number of Confederated States should hereafter be increased or diminished.

4. Res<sup>d</sup> that the U. States in Cong<sup>s</sup> be authorized to elect a federal Executive to consist of        persons, to continue in office for the term of        years, to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons composing the Executive at the time of such increase or diminution, to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service and for        years thereafter; to be ineligible a second time, & removeable by Cong<sup>s</sup> on application by a majority of the Executives of the several States;

that the Executives besides their general authority to execute the federal acts ought to appoint all federal officers not otherwise provided for, & to direct all military operations; provided that none of the persons composing the federal Executive shall on any occasion take command of any troops, so as personally to conduct any enterprise as General, or in other capacity.

5. Res<sup>d</sup> that a federal Judiciary be established to consist of a supreme Tribunal the Judges of which to be appointed by the Executive, & to hold their offices during good behaviour, to receive punctually at stated times a fixed compensation for their services in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution; that the Judiciary so established shall have authority to hear & determine in the first instance on all impeachments of federal officers, & by way of appeal in the dernier resort in all cases touching the rights of Ambassadors, in all cases of captures from an enemy, in all cases of piracies & felonies on the high seas, in all cases in which foreigners may be interested, in the construction of any treaty or treaties, or which may arise on any of the Acts for regulation of trade, or the collection of the federal Revenue: that none of the Judiciary shall during the time they remain in Office be capable of receiving or holding any other office or appointment during their time of service, or for thereafter.

6. Res<sup>d</sup> that all Acts of the U. States in Cong<sup>s</sup> made by virtue & in pursuance of the powers hereby & by the articles of confederation vested in them, and all Treaties made & ratified under the authority of the U. States shall be the supreme law of the respective States so far forth as those Acts

or Treaties shall relate to the said States or their Citizens, and that the Judiciary of the several States shall be bound thereby in their decisions, any thing in the respective laws of the Individual States to the contrary notwithstanding; and that if any State, or any body of men in any State shall oppose or prevent y<sup>e</sup> carrying into execution such acts or treaties, the federal Executive shall be authorized to call forth ye power of the Confederate States, or so much thereof as may be necessary to enforce and compel an obedience to such Acts, or an Observance of such Treaties.

7. Res<sup>d</sup> that provision be made for the admission of new States into the Union.

8. Res<sup>d</sup> the rule for naturalization ought to be the same in every State

9. Res<sup>d</sup> that a Citizen of one State committing an offence in another State of the Union, shall be deemed guilty of the same offence as if it had been committed by a Citizen of the State in which the Offence was committed.\*

Adjourned

Saturday June 16. In Committee of the whole a Resolution propos<sup>d</sup> by M<sup>r</sup> P. & M<sup>r</sup> R

M<sup>r</sup> Lansing called for the reading of the 1<sup>st</sup> resolution of each plan, which he considered as involving principles directly in contrast; that of M<sup>r</sup> Patterson says he sustains the sover-

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\*This copy of M<sup>r</sup>. Patterson's propositions varies in a few clauses from that in the printed Journal furnished from the papers of M<sup>r</sup>. Brearley a Colleague of M<sup>r</sup>. Patterson. A confidence is felt, notwithstanding, in its accuracy. ["of the one above." stricken out] That the copy ["printed" stricken out] in the Journal is not entirely correct is shewn by the ensuing speech of M<sup>r</sup>. Wilson [June 16] in which he refers to the mode of removing the Executive by impeachment & conviction as a feature in the Virg<sup>a</sup>. plan forming one of ["the" stricken out] <sup>its</sup> contrasts to that of M<sup>r</sup>. Patterson, which proposed a removal on the application of a majority of the Executives of the States. In the copy <sup>printed</sup> in the Journal, the two modes <sup>combined</sup> ["inserted" stricken out] are ["inserted" stricken out] in the same clause; whether through inadvertence, or as a contemplated amendment does not appear.



eignty of the respective States, that of M<sup>r</sup> Randolph distroys <sup>particular</sup> it: the latter requires a negative on all the laws of the States; the former, only certain general powers for the general good. The plan of M<sup>r</sup> R. in short absorbs all power except what may be exercised ["even" stricken out] in the little local matters of the States which are not objects worthy of the supreme cognizance. He grounded his preference of M<sup>r</sup> P's plan, chiefly on two objections ag<sup>st</sup> that of M<sup>r</sup> R. 1. want of power in the Convention to discuss & propose it. 2 the improbability of its being adopted. 1. He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. <sup>The Act of Congress</sup> The tenor of the Acts of the States, the comissions produced by the several deputations all proved this, and this limitation of the power to an amendment of the Confederacy, marked the opinion of the States, that it was unnecessary & improper to go farther. <sup>was</sup> He sure that this was the case with his State. N. York would never have concurred in sending deputies to the convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government. 2. was it probable that the States would adopt & ratify a scheme, which they had never authorized us to propose? and which so far exceeded what they regarded as sufficient? We see by their several particularly in relation to the <sup>plan of revenue proposed by</sup> ["requisition of" stricken out] Cong<sup>s</sup> in 17<sup>83</sup> not authorized by the acts ["what they they" stricken out] the ideas they then entertained. Can so great a change be supposed to have already taken place. To rely on any change which is hereafter to <sup>in the sentiments of the people would be</sup> take place, ["is" stricken out] trusting to too great an uncertainty. We know only what their present sentiments are, and it is in vain to propose what will not accord with these. The States will never feel a sufficient confidence in a general

Government to give it a negative on their laws. The Scheme <sup>itself</sup> is totally novel. There is <sup>no</sup> parallel to it to be found. The authority of Congress is familiar to the people, and an augmentation of the powers of Congress will be readily approved by them.

M<sup>r</sup> Patterson, said he had on a former occasion given his sentiments on the plan proposed by M<sup>r</sup> R. he would now avoiding repetition as much as possible give his reasons in favor of that proposed by himself. He preferred it because it accorded 1. with the powers of the Convention. 2 with the sentiments of the people. If the confederacy was radically wrong, let us return to our States, and obtain larger powers, not assume them of ourselves. I came here not to speak my own sentiments, but those <sup>the sentiments of</sup> those who sent me. Our object is not such a Governm<sup>t</sup> as may <sup>be</sup> best in itself, but such a one as our Constituents have authorized us to prepare, and as they will approve. If we argue the matter on the supposition that no Confederacy at present exists, it can not be denied that all the States stand on the footing of equal sovereignty. All therefore must concur before any can be bound. If a proportional representation be right, why do we not vote so here? If we argue on the ["supposition" stricken out] fact that a federal compact actually exists, and consult the articles of it we still find an equal Sovereignty to be the basis of it. <sup>He</sup> reads the 5<sup>th</sup> art: of Confederation giving each State a vote—& the 13<sup>th</sup> declaring that no alteration shall be made without unanimous consent. This is the nature of all treaties. What is unanimously done, must be unanimously undone. It was observed (by M<sup>r</sup> Wilson] that the larger State gave up the point, not because it was right, but because the circumstances of the moment urged the concession. Be it so. Are they for that

reason at liberty to take it <sup>back</sup> [illegible word stricken out] Can the donor resume his gift Without the consent of the donee. This doctrine may be convenient, but it is a doctrine that will sacrifice the lesser States. The large States acceded readily to the confederacy. It was the small ones that came in reluctantly and slowly. N. Jersey & [<sup>Maryland</sup> "M<sup>d</sup>" stricken out] were the two last, the former objecting to the want of power in Congress over trade: both of them to the want of power to appropriate the vacant territory to the benefit of the whole. If the sovereignty of the States is to be maintained, the Representatives must be drawn immediately from the States, not from the people: and we have no power to vary the [<sup>idea of equal</sup> "the" stricken out] sovereignty. The only expedient that will cure the difficulty, is that of throwing the States into Hotchpot["ch" stricken out]. To say that this is impracticable, will not make it <sup>so</sup>. Let it be tried, and we shall see whether the Citizens of Mass<sup>ts</sup> Pen<sup>d</sup> & V<sup>a</sup> [<sup>["not" stricken out]</sup> "may" stricken out] accede to it. It [<sup>will be</sup> "is" stricken out] objected that Coercion [<sup>["to" stricken out]</sup> "to" stricken out] will be impracticable. But will it be more so in one plan than the other? Its efficacy will depend on the quantum of power collected, not on its being drawn from the States, or from the individuals; and according to his plan it may be exerted on individuals as well as according that of M<sup>r</sup> R. a distinct executive & Judiciary <sup>also</sup> were equally [<sup>["proved" stricken out]</sup> "proved" stricken out] provided by this plan. It is [<sup>["objected" stricken out]</sup> "objected" stricken out] urged that two branches in the Legislature are necessary. Why? for the purpose of a check. But the reason of the precaution is not applicable to this case. Within a particular State, when party heats prevail, such a check may be necessary. In such a body as Congress it is less necessary, and besides, the delegations of <sup>the</sup> different States are

checks on each other. Do the people at large complain of Cong<sup>s</sup>? No: what they wish is that Cong<sup>s</sup> may have more power. If the power now proposed be not eno<sup>d</sup>, the people hereafter will make additions to it. With proper powers Cong<sup>s</sup> will act with more energy & wisdom than the proposed Nat<sup>l</sup> Legislature; being fewer in number, and more secreted & refined by the mode of election. The plan of M<sup>r</sup> R. will also be enormously expensive. Allowing Georgia & Del. two ["votes" stricken out] representatives each in the popular branch ["and" stricken out] the aggregate number of that branch will be 180. Add to it half as many for the other branch and you have 270. members coming once at least a year from the most distant as well as the most ["near parts" stricken out] central parts of the republic. In the present deranged State of our finances can so expensive a system be seriously thought of? By enlarging the powers of Cong<sup>s</sup> the greatest part of this expense will be saved, and ["the" stricken out] all purposes will be answered. At least a trial ought to be made.

M<sup>r</sup> Wilson entered into a contrast of the ["two plan" stricken out] principal points of the two plans, <sup>he said</sup> so far as there had been time to examine the one last proposed. These points ["he said" stricken out] <sup>are</sup> were 1. in the Virg<sup>a</sup> plan there 2 & in some degree <sup>3</sup> branches in the Legislature ÷ in the plan from N. J. there is to be a single legislature only—2. Representation of the people at large is the basis of the one ÷ the State Legislatures the pillars of the other—3. proportional representation prevails in one ÷ equality of suffrage in the other—4. a single Executive Magistrate is at the head of the one:—a plurality is held out in the other.—5. in the one the majority <sup>the people of</sup> of the U. S. must prevail:—in the other a

minority may prevail. 6. the Nat<sup>l</sup> Legislature is to make laws in all cases to which the separate States are incompetent &—:— Cong<sup>s</sup> are to have additional power in a few cases only—7. a negative on <sup>in place of this</sup> [“all” stricken out] laws of the States:— coercion to be substituted—8. The Executive to be removeable on impeachment & conviction;— to be removeable at the instance of majority of the Executives of the States—9. Revision of the laws <sup>provided for in one:</sup> —no such check <sup>in the other</sup> —10. inferior national tribunals —none such— <sup>in one:</sup> 11 y<sup>e</sup> one jurisdiction of Nat<sup>l</sup> tribunals to extend &c—; an appellate jurisdiction only. <sup>allowed in the other Here</sup> 12. the jurisdiction is [illegible word stricken out] to extend to all cases affecting [“affecting” stricken out] the Nat<sup>l</sup> peace & harmony: [“there” stricken out], a few <sup>cases</sup> [“objects” stricken out] <sup>are finally</sup> only marked out. <sup>in that of M<sup>r</sup> R. the” stricken out]</sup> 13. y<sup>e</sup> ratification by the people themselves — by the legislative authorities according to the 13 art: of Confederation.

With regard to the power of the Convention, he conceived himself authorized to conclude nothing, but to be at liberty to propose any thing. In this particular he felt himself perfectly indifferent to the two plans.

With regard to the sentiments of the people, he conceived it difficult to know precisely what they are. Those of the particular circle in which one moved, were commonly mistaken for the general voice. He could not persuade himself that the State Govt<sup>r</sup> & sovereignties were so much the idols of the people, nor a Nat<sup>l</sup> Govt<sup>r</sup> so obnoxious to them, as some supposed. Why s<sup>d</sup> a Nat<sup>l</sup> Govt<sup>r</sup> be unpopular? Has it less dignity? will each Citizen enjoy under it less liberty or protection? Will a Citizen of Delaware be degraded by becoming a Citizen of the United States? Where do the people look at present for relief from the evils of which they complain? Is

it from an internal reform of their Gov<sup>t</sup>? No. Sir, It is from the Nat<sup>l</sup> Councils that relief is expected. For these reasons he ["could" stricken out] did not fear, that the people would not follow us into a national Gov<sup>t</sup> and it [<sup>will be</sup> "is" stricken out] a further recommendation of M<sup>r</sup> R.'s plan that it is to be ["recom" stricken out] submitted to them and not to the Legislatures, for ratification.

proceeding now to the 1<sup>st</sup> point on which he had contrasted the two plans, he observed that anxious as he was for some augmentation of the federal powers, it would be with extreme reluctance indeed that he could ever consent to give ["the" stricken out] powers to Cong<sup>s</sup> he had two reasons either of w<sup>ch</sup> was sufficient. 1. Cong<sup>s</sup> as a Legislative body does not stand on the people. ["Here then a fundamental principle of free Gov<sup>t</sup> is violated" stricken out] 2. it is a single body. 1. He would not repeat the remarks he had formerly made on the principles of Representation. he would only <sup>say</sup> that an inequality in it, has ever been a poison contaminating every branch of Gov<sup>t</sup> In G. Britain where this poison has had a full operation, ["the safety", illegible word, "political liberty" stricken out] the security of private rights is owing entirely to the purity of the tribunals of Justice, the Judges of which are neither appointed nor paid by a venal Parliament. The political liberty of that Nation, owing to the inequality of representation is at the mercy of its rulers. He means not to insinuate that there is any parallel between the situation of that country & ours at present. But it is a lesson we ought not to disregard, that the smallest bodies in G. B. are notoriously the most corrupt. Every other source of ["corruption" stricken out] influence must also be stronger in small than large bodies of men. When Lord Chesterfield



had told us that one of the Dutch provinces had been seduced into the views of France, he <sup>need</sup> not ["had" stricken out] have added, that it was not Holland, but one of the smallest of them. There are facts among ourselves which are known to all. Passing over others, he will only remark that the Impost, so anxiously wished for ["through" stricken out] by the public was defeated not by any of the larger States in the Union. 2. Congress is a single Legislature. Despotism comes on mankind in different shapes. sometimes in an Executive, sometimes in a military, one. Is there no danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself, into distinct and independent branches. In a single house there ["can" stricken out] is no check, but the inadequate one, of the virtue & good sense of those who compose it.

On another great point, the contrast was equally favorable to the plan ["pro" stricken out] reported by the Committee of the Whole. It vested the Executive powers in a single Magistrate. The plan of N. Jersey, vested them in a plurality. In order to controul the Legislative authority, you must divide it. In order to controul the Executive you must unite it. One man will be more responsible than three. Three will contend among themselves till one becomes the master of his colleagues. In the triumvirates of Rome first Cæsar, then Augustus, are witnesses of this truth. The Kings of Sparta, & the Consuls of Rome prove also the factionous consequences of dividing the Executive ["tow" stricken out] Magistracy. Having already taken up so much <sup>time</sup> he w<sup>d</sup> not he s<sup>d</sup> proceed to any of the other points.

Those on which he had dwelt, are sufficient of themselves: and on a decision of them, the fate of the others will depend.

M<sup>r</sup> Pinkney, the whole comes to this, as he conceived. Give N. Jersey an equal vote, and she will dismiss her scruples, and concur in the Natl<sup>l</sup> system. He thought the Convention authorized to go any length in recommending, which they found necessary to remedy the evils which produced this Convention.

M<sup>r</sup> Elseworth proposed as a more distinctive form of collecting the mind of the Committee on the subject, ["that" stricken out] "that the Legislative power of the U. S. should ["be" stricken out] remain in Cong<sup>s</sup>. This was not seconded, though it seemed better calculated for the purpose than the 1<sup>st</sup> proposition of M<sup>r</sup> Patterson in place of which M<sup>r</sup> E. wished to substitute it.

M<sup>r</sup> Randolph. was not scrupulous on the point of power. When the salvation of the Republic was at stake, it would be treason to our trust, not to propose what we found necessary. He painted in strong colours, the imbecility of the existing confederacy, & the danger of delaying a substantial reform. In answer to the objection drawn from the sense of our Constituents as denoted by their acts relating to the Convention and the objects of their deliberation, he observed that as each <sup>State</sup> acted separately in the case, it would have been indecent for it to have charged the existing Constitution with all the vices which it might have perceived in it. The first State that set on foot this experiment would not have been justified in going so far, ignorant as it was of the opinion of others, and sensible as it must have been of the uncertainty of a successful issue to the experiment. There are certainly reasons of a peculiar nature where the ordinary cautions must be dispensed with;

and this is certainly one of them. He w<sup>d</sup> <sup>not</sup> as far as depended on him leave any thing ["done" stricken out] that seemed necessary, <sup>present</sup> undone. The moment is favorable, and is probably the last that will offer.

The true question is whether we shall adhere to the federal plan, or introduce the national plan. The insufficiency of the former has been fully displayed by the trial already made. There are but two modes, by which the end of a Gen<sup>l</sup> Gov<sup>t</sup> can be attained: the 1<sup>st</sup> is by coercion as proposed by Mr P<sup>s</sup> plan. 2. by real legislation as prop<sup>d</sup> by the other plan. Coercion he pronounced to be impracticable, expensive, cruel to individuals. It tended also to habituate the instruments of it to shed the blood & riot in the spoils of their fellow Citizens, and consequently ["educate them" stricken out] trained them up for the service of Ambition. We must resort therefore to a Legislation over individuals, for which Cong<sup>s</sup> are unfit. To vest such power in them, would be blending the Legislative with the Executive, contrary to the rec<sup>d</sup> maxim on this subject: If the Union of these powers heretofore in Cong<sup>s</sup> has been safe, it has been owing to the general impotency of that body. Cong<sup>s</sup> are moreover not elected by the people, but <sup>by</sup> the Legislatures who <sup>retain</sup> ["possess" stricken out] even a power of recall. They have therefore no will of their own, they are a mere diplomatic body, and are always obsequious to the views of the States, who are always encroaching on the authority of the U. States. ["They are" illegible letters stricken out] A provision for harmony <sup>among</sup> ["in" stricken out] the States, as in trade, naturalization &c.—for crushing rebellion whenever it may rear its crest—and for certain other general benefits, must be made. The powers for these purposes, can never be given to a body, inadequate as Congress <sup>are</sup> in point of representation,

elected in the mode in which they are, and possessing no more confidence than they do: for notwithstanding what has been said to the contrary, his own experience satisfied him that a rooted distrust of [<sup>Congress</sup> "them prevails in most of" stricken out] pretty generally prevailed. A Nat<sup>l</sup> Gov<sup>t</sup> alone, properly constituted, will answer the purpose; and he begged [<sup>the present</sup> "that" stricken out] it to be considered that is the last moment for establishing one. After this select experiment, the people will yield to despair.

The Committee rose & the House adjourned.

Monday June 18. in Committee of the whole. on the propositions of M<sup>r</sup> Patterson & M<sup>r</sup> Randolph.

On motion of Mr. Dickinson to postpone the 1<sup>st</sup>. Resolution in Mr. Patterson's plan, in order to take up the following, viz: "that the articles of confederation ought to be revised and amended so as to render the Government of the U. S. adequate to the exigencies, the preservation and the prosperity of the union." the postponement was agreed to by 10 States, Pen. divided.

M<sup>r</sup> Hamilton, had been hitherto silent on the business before the Convention, partly from respect to others whose superior abilities age & experience rendered him unwilling to bring forward ideas dissimilar to theirs, and partly from his delicate situation with respect to his own State, to whose sentiments as expressed by his Colleagues, he could by no means accede. The crisis however which now marked our affairs, ["had" stricken out] was too serious to permit any scruples whatever to prevail over the duty ["it" stricken out] imposed on every man to contribute his efforts for the public safety & happiness. He was obliged therefore to declare himself unfriendly to both plans. He was particularly opposed to that from N. Jersey, being fully convinced, that no amendment of the confederation, leaving the States in possession of their sovereignty could possibly answer the purpose. On the other

hand he confessed he was much discouraged by the amazing extent of Country in expecting the desired blessings from any general sovereignty that could be substituted.—As to the powers of the Convention, he thought the doubts started on that subject had arisen from distinctions & reasonings too subtle. A federal Gov<sup>t</sup> he conceived to mean an association of independent Communities into one. Different Confederacies have different powers, and exercise them in different ways. In some instances the powers are exercised [“over individuals, in others” stricken out] over collective bodies; in others over individuals, as in the German Diet—& among ourselves in cases of piracy. Great latitude therefore must be given to the signification of the term. The plan last proposed [“itself” stricken out] <sup>itself</sup> departs from the federal idea, as understood by some, since it is to operate eventually on individuals. He agreed moreover with the Hon<sup>ble</sup> gentleman from Va [Mr R.] that we owed it to our Country, to do on this emergency whatever we should deem essential to its happiness. The States sent us here to provide for the exigences of the Union. To rely <sup>on</sup> & propose any plan not adequate to these exigences, merely <sup>[“not” stricken out] clearly</sup> because it was within our powers, would be to sacrifice the means to the end. It [“has” stricken out] may be said that the States can not ratify a plan not within the purview of the article of Confederation providing for alterations & amendments. But may not the States themselves in which no constitutional authority equal to this purpose exists in the Legislatures, have had in view a reference to the people at large. In the Senate of N. York, a proviso was moved, that no act of the Convention should be binding untill <sup>it</sup> should be referred to the people & ratified; and the motion was lost by a single voice only, the reason

assigned ag<sup>st</sup> it, being that it <sup>might possibly</sup> be found an inconvenient shackle.

The great question is what provision shall we make for the happiness of our Country? He would first make a comparative examination of the two plans—prove that there were essential defects in both—and point out such changes as might render a national one, efficacious.—The great & essential principles necessary for the support of Government, are 1. an active & constant interest in supporting it. This principle does not exist in the States in favor of the federal Gov<sup>t</sup>. They have evidently in a high degree, the esprit de corps. They constantly pursue internal interests adverse to those of the whole. They have their particular debts—their particular plans of finance &c. all these <sup>when</sup> [“are” stricken out] opposed to, invariably prevail over the requisitions & plans of Congress. 2. the love of power, Men love power. The same remarks are applicable to this principle. The States have constantly shewn a disposition <sup>rather</sup> to regain the powers delegated by them <sup>[“rather” stricken out]</sup> than <sup>to</sup> to part with more, or give effect to what they had parted with. The ambition of their demagogues is known to hate the controul of the Gen<sup>l</sup> Government. It may be remarked too that the Citizens have not that [“interest in preventing” stricken out] anxiety to prevent a dissolution of the Gen<sup>l</sup> <sup>Gov<sup>t</sup></sup> as of the particular Gov<sup>ts</sup>. A dissolution of the latter would be fatal: of the former would still leave the purposes of Gov<sup>t</sup> attainable to a considerable degree. Consider what such a State as Virg<sup>a</sup> will be in a few years, a few compared with the life of nations. How strongly will it feel its importance & self-sufficiency? 3. an habitual attachment of the people. The whole force of this tie is on the side of the State [“s ag” stricken out] <sup>st</sup> Gov<sup>t</sup>. Its



sovereignty is immediately before the eyes of the people: its protection is immediately enjoyed by them. From its hand ["there is" stricken out] distributive justice, and all those acts which familiarize & endear ["a" stricken out] Gov<sup>t</sup> to a people, are dispensed to them. 4. Force by which may be understood a coercion of laws or coercion of arms. Cong<sup>s</sup> have not the former except in few cases. In particular States, this coercion is nearly sufficient; tho' he held it in most cases, not entirely so. A certain portion of military force <sup>is</sup> absolutely necessary in large communities. Mass<sup>ts</sup> is now feeling this necessity & making provision for it. But how can this force be exerted on the States collectively. It is impossible. It amounts to a war between the parties. Foreign powers also will not be idle spectators. They will interpose, the confusion will increase, and a dissolution of the Union ensue. 5. influence. he did <sup>mean</sup> not corruption, but a dispensation of those regular honors & emoluments, which produce an attachment to the Gov<sup>t</sup> <sup>weight of these is on the side</sup> almost all the ["se are in favor" stricken out] of the States; and must continue so as long as the ["y" stricken out] States continue to exist. All the passions then we see, of avarice, ambition, interest, which govern most individuals, and all public bodies, fall into the current of the States, and do not flow in the stream of the Gen<sup>l</sup> Gov<sup>t</sup> the former therefore will generally be an overmatch for the Gen<sup>l</sup> Gov<sup>t</sup> and render any confederacy, in its very nature precarious. Theory is in this case fully confirmed by experience. The Amphictyonic Council had it would seem ample powers for general purposes. It had in particular the power of fining and using force ag<sup>t</sup> delinquent members. What was the consequence. Their decrees were mere signals of war. The Phocian war is ["one"

stricken out]<sup>a striking</sup> example of it. Philip at length taking advantage of their disunion, and insinuating himself into their Councils, made himself master of their fortunes. The German Confederacy affords another lesson. The authority of Charlemagne seemed to be as great as could be necessary. The great ["Barons however" stricken out] feudal chiefs however, exercising their local sovereignties, soon felt the spirit & found the means of, encroachments, which ["stop" stricken out] reduced the ["general" stricken out] imperial authority to a nominal sovereignty. The Diet has succeeded, which tho' aided by a Prince at its head, of great authority independently of his imperial attributes, is a striking illustration of the weakness of Confederated Governments. Other examples instruct us in the same truth. The Swiss cantons have scarce any Union at all, and ["are frequently at" <sup>have been more than once at</sup> stricken out] war with one another— How then are all these evils to be avoided? only by such a compleat sovereignty in the general Government as will turn all the strong principles & passions above mentioned on its side. Does the scheme of N. Jersey produce this effect? does it afford any substantial remedy whatever? On the contrary it labors under great defects, and the defect of some of its provisions will destroy the efficacy of others. It gives a direct revenue to Congs. but this will not be sufficient. The balance can only be supplied by requisitions; which experience proves can not be relied <sup>on</sup>. If States are to deliberate on the mode, they will also deliberate on the object of the supplies, and will grant or not grant as they approve or disapprove of it. The delinquency of one will invite and countenance it <sup>in</sup> others. Quotas too must in the nature of things be so unequal as to produce the same evil. To what standard will you resort? Land is a fallacious one. Compare

Holland [<sup>with</sup> "&" stricken out] Russia: France or Eng<sup>d</sup> with other countries of Europe. Pen<sup>a</sup> with N. Caroli<sup>a</sup> will the relative abilities in those instances, correspond with the relative value of land. Take numbers of inhabitants for the rule and comparison of different countries, and you will find it to be equally unjust. The different degrees of industry and improvement in different Countries render the first object a precarious measure of wealth. Much depends too on situation. Con<sup>t</sup> N. Jersey & N. Carolina, not being commercial States [<sup>make like</sup> "&" written upon "but"] contributing to the wealth of the commercial ones, can never bear [<sup>pecuniary</sup> "a" stricken out] quotas assessed by the ordinary rules of proportion. They will & must fail <sup>in their duty.</sup> their example will be followed, and the Union itself be dissolved. Whence then is the national revenue to be drawn? <sup>from</sup> from Commerce? even exports which notwithstanding the common opinion [<sup>moderate</sup> "is" stricken out] are fit objects of taxation, excise, [<sup>from</sup> "& other" stricken out] &c &c. These tho' not equal, are less unequal than quotas. Another destructive ingredient in the plan, is that equality of suffrage which is so much desired by the small States. It is not in human nature that V<sup>a</sup> & the large States should consent to it, or if they did that they sh<sup>d</sup> long abide by it. It shocks too much <sup>the</sup> ideas of Justice, and [<sup>the</sup> "the" stricken out] every human feeling. Bad principles in a Gov<sup>t</sup> tho slow are sure in their operation, and will gradually destroy it. A doubt has been raised whether Cong<sup>s</sup> at present have <sup>a</sup> right to keep Ships or troops in time of peace. He leans to the negative. Mr P.<sup>s</sup> plan provides no remedy.—If the powers proposed were adequate, the organization of Cong<sup>s</sup> is such that they could never be properly exercised. <sup>& effectually</sup> The members of Cong<sup>s</sup> being chosen by the States & subject to recall, represent all the

local prejudices. ["were" stricken out] <sup>should</sup> the powers <sup>be found</sup> effectual, they will from time to time be heaped on them, till a tyrannic sway shall be established. The general power <sup>whatever be its form</sup> if it preserves itself, must swallow up the State powers. otherwise it will be swallowed up by them. It is ag<sup>t</sup> all the principles of a good Government to vest the requisite powers in such a body as Cong<sup>s</sup>. Two Sovereignities can not co-exist within the same limits. Giving ["power" stricken out] powers to Cong<sup>s</sup> must eventuate in a bad Gov<sup>t</sup> or in no Gov<sup>t</sup>. The plan of N. Jersey therefore will not do. What then is to be done? Here he was embarrassed. The extent of the Country to be governed, discouraged him. The expence of a general Gov<sup>t</sup> was also formidable; unless there <sup>were</sup> such a diminution of expence on the side of the State Gov<sup>ts</sup> as the case would admit. If they were extinguished, he was persuaded that great œconomy might be obtained by substituting a general Gov<sup>t</sup>. He did not mean however to shock the public opinion by proposing such a measure. On the other <sup>hand</sup> he saw no other necessity for declining it. They are not necessary for any of the great purposes of commerce, revenue, or agriculture. Subordinate authorities he was aware would be necessary. There must be district tribunals: ["little" stricken out] corporations for local purposes ["would also be necessary" stricken out]. But *eni bono*, the vast & expensive apparatus now appertaining to the States. The only difficulty of a serious nature which occurred to him, was that of drawing representatives from the extremes to the center of the Community. What inducements can be offered that will suffice? The moderate wages ["will" stricken out] for the 1<sup>st</sup> branch, will only be a bait to little demagogues. Three dollars or thereabouts he supposed would be the Utmost. The Senate he feared from a similar

cause, would be filled by certain undertakers who wish for particular offices under the Gov<sup>t</sup>. This view of the subject almost led him to despair that a Republican Gov<sup>t</sup> could ["not" stricken out] be established over so great an extent. He was sensible at the same time that it would be unwise to propose <sup>one of</sup> any other form. In his private opinion he had no scruple in declaring, supported as he was by the opinions of so many of the wise & good, that the British Gov<sup>t</sup> was the best in the world: and that he doubted much whether any thing short of it would do in America. He hoped Gentlemen of different opinions would bear with him in this, and begged them to recollect the change of opinion on this subject which had taken place and was still going on. It was once thought that the power of Cong<sup>s</sup> was amply sufficient to secure the end of their institution. The error was now seen by every one. The members most tenacious of republicanism, he observed, were as loud as any in declaiming ag<sup>st</sup> the vices of democracy. This progress of the public mind led him to anticipate the time, when others as well as himself would join ["with M<sup>r</sup>" stricken out] in <sup>the</sup> praise bestowed by M<sup>r</sup> Neckar on the British Constitution, namely, that it is the only Gov<sup>t</sup> in the world "which unites public strength with individual security."—In every community where industry is encouraged, there will be a division of it into the few & the many. Hence separate <sup>There will be debtors & Creditors &c.</sup> interests will arise. Give all power to the many, they will oppress the few. Give all power to the few they will oppress the many. Both therefore ought to have ["the" stricken out] power, that each may defend itself ag<sup>st</sup> the other. ["For" stricken out] To the want of this check we owe our paper money—instalment laws &c. To the proper adjustment of it the British owe the excellence of their Constitution. Their

house of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest by means of their property, in being faithful to the National interest, they form a permanent barrier ag<sup>st</sup> every pernicious innovation, whether attempted on the part of the Crown or of the Commons. No temporary Senate will have firmness en'o' to answer the purpose. The Senate<sup>[of Maryland]</sup> which seems to be so much appealed to, has not yet been sufficiently tried. Had the people been unanimous & eager, in the late appeal to them on the subject of a paper emission they would have yielded to the torrent. Their acquiescing in <sup>such an</sup> ["the" stricken out] such an appeal is a proof of it.—Gentlemen differ["ent" stricken out] in their opinions concerning the necessary checks, from the different estimates they form of the human passions. They suppose["ed" stricken out] Seven years a sufficient period to <sup>give</sup> ["render" stricken out] the Senate an adequate firmness, from not duly considering the amazing violence & turbulence of the democratic spirit. When a great object of Gov<sup>t</sup> is pursued, which seizes the popular passions, they spread like wild fire, and become irresistible. He appealed to the gentlemen from the N. England States whether experience had not there["fore" stricken out] verified the remark. As to the Executive, it seemed to be admitted that no good one could be established on Republican principles. Was not this giving up the merits of the question; for can there be a good Gov<sup>t</sup> without a good Executive. The English model was the only good one on this subject. The Hereditary interest of the King was so interwoven with that of the Nation, ["that" stricken out] and his personal emoluments so great, that he was placed above the danger of being corrupted from abroad—and at the same time



was both sufficiently independent and sufficiently controuled, to answer the purpose of the institution at home. one of the weak sides of Republics was their being liable to foreign influence ["influence" stricken out] & corruption. Men of little character, acquiring great power become easily the tools of intermeddling neighbours. Sweeden was a striking instance. The French & English had each their parties ["in regular pay the" stricken out] during the late Revolution which was effected by the predominant influence of the former. What is the inference from all these observations? That we ought to go as far in order to attain stability and permanency, as republican principles will admit. Let one branch of the Legislature hold their places for life or at least during good-behaviour. Let the Executive also be for life. ["Let the 1<sup>st</sup>" stricken out] He appealed to the feelings of the members present whether a term of seven years, would induce the sacrifices of private affairs which an acceptance of public trust would require, so so as to ensure the services of the best Citizens. On this plan we should have in the Senate a permanent will, ["and" stricken out] a weighty interest, which would answer essential purposes. But is this a Republican Gov<sup>t</sup> it will be asked? Yes, if all the Magistrates are appointed, and vacancies are filled, by the people, ["that is to say" stricken out] or a process of election originating with the people. He was sensible that an Executive constituted as he proposed would have in fact but little of the power and independence that might be necessary. On the other plan of appointing him for 7 years, he ["think" stricken out] thought the Executive ought to have but little power. He would be ambitious, with the means of making creatures; and as the object of his ambition w<sup>d</sup> be to prolong his power, it is prob-

able that in case of a war, he would avail himself of the emergence, to evade or refuse ["to" stricken out] a degradation from his place. An Executive for life has not this motive for forgetting his fidelity, and will therefore be <sup>a</sup> safer depositary ["for" stricken out] of power. It will be objected probably, that such an Executive will be an elective Monarch, and will give birth to the tumults which characterise ["to" stricken out] that form of Gov<sup>t</sup>. He w<sup>d</sup> reply that Monarch is an indefinite term. It marks not either the degree or duration of power. If this Executive Magistrate w<sup>d</sup> be a monarch for life—the other prop<sup>d</sup> by the Report from the Committee of the whole, w<sup>d</sup> be a monarch for seven years. The circumstance of being elective was also applicable to both. It had been observed by judicious writers that elective monarchies w<sup>d</sup> be the best if they could be guarded ag<sup>st</sup> the tumults excited by the ambition and intrigues of competitors. He was not sure that tumults were an inseparable evil. He rather thought this character of Elective Monarchies had been taken rather from ["the" stricken out] particular cases than from general principles. The election of Roman Emperors was made by the Army. In Poland the election is made by great rival princes with independent power, and ample means, of raising commotions. In the German Empire, The appointment is made by the Electors & Princes, who have equal motives & means, ["to make <sup>for exciting</sup> for making" stricken out] cabals & parties. Might <sup>not</sup> such a mode of election be devised among ourselves as will ["be secure ag<sup>st</sup>" stricken out] defend the community ag<sup>st</sup> these effects in any dangerous degree? Having made these observations he would read to the Committee a sketch of a plan which he sh<sup>d</sup> prefer to either of those under consideration. He was aware that it went beyond the

ideas of most members. But will such a plan be adopted out of doors? In return <sup>he would ask</sup> will the people adopt the other plan? At present they will adopt neither. But <sup>he</sup> sees the Union dissolving or already dissolved—he sees evils operating in the States which must soon cure the people of their fondness for democracies—he sees that a great progress has been already made [“in the” stricken out] & is still going on in the public mind. He thinks therefore that the people will in time be unshackled from their prejudices; and whenever that happens, they will themselves not be satisfied at stopping where the plan of Mr R. w<sup>d</sup> place them, but be ready to go as far at least as he proposes. He did not mean to offer the paper he had sketched as a proposition to the Committee. It was meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr R. in the proper stages of its future discussion. <sup>He</sup> reads his sketch in the words following: to wit

I “The Supreme Legislative power of the United States of America to be vested in two different bodies of men; the one to be called the Assembly, the other the Senate who together shall form the Legislature of the United States with power to pass all laws whatsoever subject to the Negative hereafter mentioned.

II The Assembly to consist of persons elected by the people to serve for three years.

III. The Senate to consist of persons elected to serve during good behaviour; their election to be made by electors chosen for that purpose by the people: in order to this the States to be divided into election districts. On the death, removal or resignation of any Senator his place to be filled out of the district from which he came.

IV. The supreme Executive authority of the United States to be vested in a Governour to be elected to serve during good behaviour—the election to be made by Electors chosen by the people in the Election Districts aforesaid— The authorities & functions of the Executive to be as follows: to have a negative on all laws about to be passed, and the execution of all laws passed, to have the direction of war when authorized or begun; to have with the advice and approbation of the Senate the power of making all treaties; to have the sole appointment of the heads or chief officers of the departments of Finance, War and Foreign Affairs; to have the nomination of all other officers (Ambassadors to foreign Nations included) subject to the approbation or rejection of the Senate; to have the power of pardoning all offences except Treason; which <sup>he</sup> shall not [<sup>pardon without</sup> “be pardoned” stricken out] the approbation of the Senate.

V. On the death resignation or removal of the Governour his authorities to be exercised by the President of the Senate till a Successor be appointed.

VI The Senate to have the sole power of declaring war, the power of advising and approving all Treaties, the power of approving or rejecting all appointments of officers except the heads or chiefs of the departments of Finance War and foreign affairs.

VII. The Supreme Judicial authority to be vested in Judges to hold their offices during good behaviour with adequate and permanent salaries. This Court to have original jurisdiction in all causes of capture, and an appellate jurisdiction in all causes in which the revenues of the general Government or the citizens of foreign nations are concerned.

VIII. The Legislature of the United States to have power

to institute Courts in each State for the determination of all matters of general concern.

IX. The Governour Senators and all officers of the United States to be liable to impeachment for mal—and corrupt conduct; and upon conviction to be removed from office, & disqualified for holding any place of trust or profit—all impeachments to be tried by a Court to consist of the Chief or Judge of the Superior Court of Law of each State, provided such Judge shall hold his place during good behavior, and have a permanent salary.

X All laws of the particular States contrary to the Constitution or laws of the United States to be utterly void; and the better to prevent such laws being passed, the Governour or president of each State shall be appointed by the General Government and shall have a negative upon the laws about to be passed in the State of which he is Governour or President

XI No State to have any forces land or Naval; and the Militia of all the States to be under the sole and exclusive direction of the United States, the officers of which to be appointed and commissioned by them

On these several articles he entered into explanatory observations corresponding with the principles of his introductory reasoning

["adjourned" stricken out]

Committee rose & the House adjourned.

Tuesday June 19<sup>th</sup> in Committee of whole. on the propositions of Mr.

Patterson.

The Substitute offered yesterday by Mr. Dickenson ["bein" stricken out] being rejected by a  
Con. N. Y. N. J. Del. ay. Mas. Pa. V. N. C. S. C. Geo. no May<sup>9</sup>l. divided  
 vote now taken on it; ["the proposition of" stricken out] Mr. Patterson's plan ["was by another vote postponed" illegible word stricken out] was again at large before the Committee

Mr Madison. Much stress had been laid by some gentlemen on the want of power in the Convention to propose any



other than a federal plan. To what had been answered by others, he would only add, that neither of the characteristics <sup>["not" stricken out] support</sup> <sup>would ["sustain" stricken out]</sup> <sup>this objection</sup> attached to a federal plan <sup>that</sup>. One characteristic, was <sup>in</sup> a federal Government, the power was exercised not on the people individually; but on the people collectively, on the States. Yet in some instances as in piracies, captures &c. the existing Confederacy, and in many instances, the <sup>["of Mr. Patterson" stricken out]</sup> <sup>["proposed" stricken out]</sup> <sup>it proposed by Mr. Patterson</sup> amendments, to <sup>must</sup> operate immediately on individuals. The other characteristic was, that a federal Gov<sup>t</sup> derived its appointments not immediately from the people, but from the States which they <sup>respectively composed.</sup> <sup>["formed". stricken out]</sup> <sup>facts</sup> Here two <sup>["facts" stricken out]</sup> were <sup>on</sup> the other side. In two of the States, Connec<sup>t</sup> and Rh. Island, the delegates, to Cong<sup>s</sup> were chosen, not by the Legislatures, but by the people at large; and the plan of M<sup>r</sup> P. intended no change in this particular.

It had been alleged [by M<sup>r</sup> Patterson] that the Confederation having been formed by unanimous consent, could be dissolved by unanimous Consent only Does this doctrine result from the nature of compacts? does it arise from any particular stipulation in the articles of Confederation? <sup>["According to the fund" stricken out]</sup> If we consider the federal union as analagous to the fundamental compact by which individuals compose one Society, <sup>["it can" stricken out]</sup> and which must in its theoretic <sup>["al" stricken out]</sup> origin at least, <sup>have</sup> been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without <sup>["the" stricken out]</sup> unanimous consent. a breach of the fundamental principles of the compact by a part of the Society would certainly absolve the other part from their obligations to it. <sup>["no" stricken out]</sup> <sup>["one article" stricken out]</sup> <sup>Again</sup> <sup>a</sup> <sup>fundamental</sup> <sup>base</sup> of Civil



Society the social compact is that a majority in preserving the objects of the compact, the majority shall in all cases. But to be satisfied" stricken out] If the breach of any article by any of the parties, does not set the others at liberty, it is because, the contrary is implied in the compact itself, and particularly by that law of it, which gives an indefinite authority to the majority to bind the whole in all cases. This latter circumstance shews <sup>["however" stricken out]</sup> that we are not to consider the federal Union as analogous to the social compact of individuals: for if it were so, ["the consequence would be that" stricken out] a Majority [illegible word stricken out] would have a right to bind the rest, and even to form a new Constitution for the whole, which the Gent<sup>n</sup> from N. Jersey would be among the last to admit. If we consider ["thus" stricken out] the federal union as analogous not to the <sup>social</sup> compacts among individual men: but to the conventions among individual States. ["and must make" stricken out] What is the doctrine resulting from these conventions? ["is that the intention of the parties" stricken out] Clearly, according <sup>to</sup> the Expositors of the law of Nations, that a breach of any one article, by any one party, leaves all the other parties at liberty, to consider the whole convention <sup>as</sup> dissolved, unless they choose rather to compel the delinquent party to repair the breach. In some treaties indeed it is expressly stipulated that a violation of particular articles shall not have this consequence, and even that particular articles shall remain in force during ["a" stricken out] war, which <sup>in general</sup> is understood to dissolve all subsisting Treaties. But are there any exceptions of this sort to the Articles of confederation? ["or the" stricken out] So far from it that there is not even an express stipulation that force shall <sup>be</sup> used to compell an offending member of the

Union to discharge its duty. He observed <sup>that the violations</sup> of the federal articles had been numerous & notorious. Among the most notorious was an Act of N. Jersey herself; by which she expressly refused to comply with a constitutional requisition of Cong<sup>s</sup>—and yielded no farther to the expostulations of their deputies, than barely to rescind her vote of refusal without passing any positive act of compliance. He did not wish to <sup>draw</sup> ~~["make" stricken out]~~ any rigid inferences from these observations. He thought it proper however that the true nature of the existing confederacy should be investigated, and he was not anxious to strengthen the foundations on which it now stands

Proceeding to the consideration of M<sup>r</sup> Patterson's plan, he stated [~~"that"~~ stricken out] the object of a proper plan to be twofold. 1. to preserve the Union. 2. to provide a Govern<sup>t</sup> that will remedy [~~"all"~~ stricken out] the evils felt by the [~~"U. S. in"~~ stricken out] States both in their united and individual capacities. [~~"Con"~~ stricken out] Examine M<sup>r</sup> P.'s plan, & say whether it promises [~~"us"~~ stricken out] satisfaction in these respects.

1. Will it prevent those violations of the law of nations & of Treaties which if not prevented must involve us in the calamities of foreign wars? The tendency of the States to [~~illegible word stricken out~~] these violations has been manifested in sundry instances. The files of Cong<sup>s</sup> contain complaints already, from almost every nation with which treaties have been formed. Hitherto indulgence has been shewn to us. This cannot be the permanent disposition of foreign nations. A rupture with other powers is among the greatest of national calamities. It ought therefore to be effectually provided that no part of a nation shall have it in its power to

bring them on the whole. The existing <sup>not</sup> confederacy does sufficiently provide against this evil. The proposed amendment to it does not supply the omission. It leaves the will of the States as uncontrouled as ever.

2. Will it prevent encroachments on the federal authority? A tendency to such encroachments has been sufficiently exemplified among ourselves, as well in every other confederated republic antient and Modern. By the federal articles, transactions with the Indians appertain to Cong<sup>s</sup>. Yet in several instances, the States [~~"in question Georgia"~~ stricken out] have entered into treaties & wars with them. [~~"she"~~ stricken out] [~~"as if they~~ <sup>can</sup> were" stricken out] In like manner no two or more States form among themselves any treaties &c without the consent of Cong<sup>s</sup>. <sup>yet</sup> Virg<sup>a</sup> & Mary<sup>d</sup> in one instance—Pen<sup>a</sup> & N. Jersey in another, have entered into compacts, [~~"without as if no~~ <sup>without previous</sup> such" stricken out] <sup>appli</sup> cation or subsequent apology. No State, <sup>again</sup> can of right raise troops in time of peace without the like [~~"consent. If any usurpation in the federal authority be worthy attention"~~ stricken out] consent. Of all cases of the league, this seems to require the most scrupulous observance. Has not Mass<sup>ts</sup>, notwithstanding, the most powerful member of the Union, already raised a body of troops? Is she not now augmenting them, without having even deigned to apprise Cong<sup>s</sup> of Her intention? <sup>In fine</sup> Have we not seen the public land dealt out to Con<sup>t</sup> to bribe her acquiescence in the decree constitutionally awarded ag<sup>st</sup> her claim on the territory of Pen<sup>a</sup>—? for <sup>other</sup> no possible motive can account for the policy of Cong<sup>s</sup> in that measure?—if we recur to the example of other confederacies, we shall find [~~"that"~~ stricken out] in all of them the same tendency of the parts to encroach on the authority of the

whole. ["and" stricken out] He then reviewed the Amphyc-trionic & Achæan confederacies among the antients, and the Helvetic, Germanic & Belgic among the moderns, tracing their analogy to the U. States—["vesting their federal authorities both" stricken out] in the constitution and intent of their federal authorities—["and" stricken out] in the tendency of the particular members to usurp on these authorities; and ["in the obstinacy which" stricken out] to bring confusion & ruin on the whole. ["see paper B" stricken out]  
besides omitting a controul over the States as a general defence of the federal prerogatives  
 out].—He observed that the plan of M<sup>r</sup> Pat—son <sup>^</sup> was particularly defective in two of its provisions. 1. Its ratification was not to be by the people at large, but by the Legislatures. It could not therefore render the acts of Cong<sup>s</sup> in pursuance of even legally paramount <sup>to the federal tribunal</sup> to the Acts of the States. 2. It gave ["only" stricken out] <sup>the</sup> an appellate jurisdiction only—even in criminal cases enumerated, ["to the federal tribunals" stricken out] The necessity of any such provision supposed a danger of undue acquittals in the State tribunals. ["How would a" stricken out] Of what avail w<sup>d</sup> an appellate tribunal be, after an acquittal? Besides in most if not all of the States, the Executives have by their respective Constitutions the right of pard<sup>s</sup>. How could this be taken from them by a legislative ratification only?

3. Will it prevent trespasses of the States on each other? Of these enough has been already seen. He instanced ["a" stricken out] Acts of Virg<sup>a</sup> & Maryland which give a prefer-  
of other states  
 ence to their own citizens in cases where the Citizens are entitled to equality of privileges by the Articles of Confedera-  
& other kindred measures  
 tion. He considered the emissions of paper money <sup>^</sup> as also ["an" stricken out] aggressions. The States relatively to  
an  
 one <sup>^</sup> other being ["allways" stricken out] <sup>each</sup> <sup>^</sup> of them either

Debtor or Creditor; The ["Debtor" stricken out]<sup>Creditor</sup> States must suffer unjustly from every emission by the debtor States. We have <sup>seen</sup> retaliating acts on this subject which threatened danger <sup>not</sup> to the harmony only, but the tranquillity of the Union. The plan of M<sup>r</sup> Paterson, not giving even a negative on the Acts of the States, left them as much at liberty as ever to execute their unrighteous projects ag<sup>st</sup> each other.

4. Will it secure ["a good internal Legis" stricken out] the internal tranquillity of the States themselves? The insurrections in Mass<sup>ts</sup> admonished <sup>the States</sup> all of the danger to which they were exposed. Yet the plan of M<sup>r</sup> P. contained no provisions for supplying the defect of the Confederation on this point. According to the Republican theory indeed, Right & power being both vested in the majority, are held to be synonymous. According to fact & experience, a <sup>in an appeal to force</sup> minority may be an overmatch for the majority. 1. If the minority happen to include all such as possess ["military" stricken out] the skill & habits of military life, with such as possess the great pecuniary resources, one third ["or less," stricken out]<sup>["entirely" stricken out]</sup> may conquer the remaining two thirds. 2. one third of those who participate in the choice of ["their" stricken out] rulers may be rendered a majority by the accession of those whose <sup>poverty</sup> ["poperty" stricken out] disqualifies them from ["the" stricken out] a suffrage, & who for obvious reasons may be more ready to join the standard of sedition than that of the established Government. 3. Where slavery exists, the Republican Theory becomes still more fallacious.

5. Will it secure a good internal legislation & administration to the particular States? In developing the evils which vitiate the political system of the U. S. it is proper to take



into view those which prevail within the States individually as well as those which affect them collectively: Since the former indirectly affect the whole; and there is great reason to believe that the pressure of them had [illegible word stricken out]<sup>a</sup> full share in the motives which produced the present Convention. Under this head he enumerated and animadverted on 1. the multiplicity of the laws passed by the several States. 2. the mutability of their laws. 3. the injustice of them. 4. the impotence of them: observing that M<sup>r</sup> Patterson's plan contained no remedy for this dreadful class of evils, and could not therefore be received as an adequate provision for the exigencies of the Community.

6. Will it secure the Union ag<sup>st</sup> the influence of foreign powers over its members. He pretended not to say that any such influence had yet been tried: but it ["was" stricken out] naturally to be expected that occasions would produce it. As lessons which claimed particular attention, he cited the intrigues practiced among the Amphictionic Confederates first by the Kings of Persia, and afterwards fatally by Philip of Macedon: Among the Achæans, first by Macedon & afterwards no less fatally by Rome: Among the Swiss by Austria, France & the [<sup>lesser</sup> "other" stricken out] neighbouring Powers; among the members of the Germanic <sup>Body</sup> by France, England, ["Prussia" stricken out] Spain & Russia—: ["and among" stricken out] and in the Belgic Republic, by all the great neighbouring powers. [illegible words stricken out] The plan of M<sup>r</sup> Patterson, not giving to the general Councils any negative on the will of the particular States, left the door open for the ["same invidious policy from same" stricken out]<sup>like</sup> pernicious machinations among ourselves.

7. He begged the smaller States which were most attached



to Mr Pattersons plan to consider the situation in which it would leave them. In the first place they would continue to bear the whole expense of maintaining their Delegates in Congress. It ought not to be said that if they were willing to bear this burden, no others had a right to complain. As far as it led the small States to forbear keeping up a representation, by which the public business was delayed, it was evidently a matter of common concern. ["and" stricken out] An examination of the minutes of Congress would satisfy every <sup>one</sup> ["Gentleman" stricken out] that the public business had been frequently delayed by this cause; and that the States most frequently unrepresented in Cong<sup>s</sup> were not the larger States. He reminded the convention of another consequence of leaving <sup>on a</sup> ["to the" stricken out] small State the ["equal" stricken out] burden of Maintaining a Representation in Cong<sup>s</sup>. During a <sup>considerable</sup> ["certain" stricken out] <sup>period</sup> of the War, one of the Representatives of Delaware, in whom alone before the signing of the Confederation the <sup>entire</sup> vote of that State ["frequent frequently resided" stricken out] and after that event one half of its vote, frequently resided, was a Citizen & Resident of Penn<sup>a</sup> and held an office <sup>in his own State incom</sup> patible ["which disqualified" stricken out] with ["a seat" stricken out] an appointment from it to Cong<sup>s</sup>. During another period, the same State was represented by three delegates two of whom were ["residents" stricken out] citizens of Penn<sup>a</sup>—and the third a Citizen of New Jersey. These expedients must have been intended to avoid the burden of supporting delegates from their own State. But whatever might have been y<sup>e</sup> cause, ["th" stricken out] was not in effect the vote of one State doubled, and the influence of another increased by it? ["in the" illegible words, "2 ?"]

stricken out]. <sup>In the 2<sup>d</sup>. place</sup> The coercion, on which the efficacy of the plan depends, can never be exerted <sup>["the States" erased]</sup> but on <sup>^</sup> themselves. The larger States will be impregnable, the smaller only can feel the vengeance of it. He illustrated the position by the ["story" <sup>history</sup> stricken out] of the Amphyctionic Confederates: and the ban of the German Empire, ["in" stricken out] <sup>be</sup> It was the cobweb w<sup>ch</sup> could entangle the weak, but would <sup>be</sup> the sport of the strong.

8. He begged them to consider the situation in which they would remain in case their pertinacious adherence to an inadmissible plan, should prevent the adoption of any plan. The contemplation of such an event was painful; but it would be prudent to submit to the task of examining it at a distance, that the means of escaping it might be the more readily embraced. Let the union of the States be dissolved <sup>and</sup> ["and" stricken out] one of two consequences must happen. Either the States must remain individually independent & sovereign; or two or more Confederacies must be formed among them. In the first event would the small States be more secure ag<sup>st</sup> the ambition & power of their larger neighbours, than they would be under a general Government pervading with equal energy every part of the Empire, and having an equal interest in protecting every part ag<sup>st</sup> every other part? In the second, can the smaller expect that their larger neighbours would confederate with them on the principle of the present confederacy, which gives to each member, an equal suffrage; or that they would exact less severe concessions from the smaller States, than are proposed in the scheme of M<sup>r</sup> Randolph?

The great difficulty lies in the affair of Representation; and if this could be adjusted, all others would be surmount-

able. It was admitted by both the gentlemen from N. Jersey, [M<sup>r</sup> Brearly and M<sup>r</sup> Patterson] that it would not be just to allow Virg<sup>a</sup> which ["had" stricken out] <sup>was</sup> 16 times as large as Delaware an equal vote only. Their language was that it would not be safe for Delaware to allow Virg<sup>a</sup> 16 times as many votes. The expedient proposed by them was that all the States should be thrown into one mass and a new partition ["of them" stricken out] be made into 13 equal parts. Would such a scheme be practicable? ["He thought not. The varieties" <sup>The dissimilarities</sup> stricken out] existing in the rules of property, as well as <sup>in</sup> the manners, habits and prejudices of the different States, amounted to a prohibition of ["such" erased] the attempt. It had been found impossible for <sup>the power of</sup> one of the most absolute princes <sup>[K. of France]</sup> <sup>the wisdom of</sup> in Europe directed by one of the most enlightened and patriotic Ministers [M<sup>r</sup> Neckar] that any age has produced, to equalize in some points <sup>only</sup> the different usages & regulations of <sup>the</sup> different provinces. But admitting a general amalgamation and repartition of the States, to be practicable, and the danger ["under" stricken out] <sup>by the smaller States</sup> apprehended from a proportional representation to be real; would not a particular and voluntary coalition of these with their neighbours, be less inconvenient to the whole community, and equally effectual for their own safety. If N. Jersey or Delaware conceive["d" stricken out] that an advantage would accrue to them from an equalization of the States, in which case they would necessarily <sup>["such" stricken out]</sup> form a junction with their neighbors, why might not this end be attained by leaving them at liberty by the Constitution to form <sup>such a</sup> ["voluntary" stricken out] junction whenever they pleased? and why should they ["insist on a general" stricken out] <sup>a like</sup> wish to obtrude ["such an" stricken out] arrangement on all the States, when it was, to say the least,

extremely difficult, would be obnoxious to many of the States, and [<sup>when</sup> "where neither lesser" stricken out] neither the inconveniency, nor the benefit of the expedient to themselves, would be lessened, by confining it to themselves.—The prospect of many new States to the Westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but but few inhabitants. If they [<sup>sh<sup>d</sup></sup> "were to" stricken out] be entitled to vote according to their proportions of inhabitants, all would be right & safe. Let them have an equal vote, and a more objectionable minority than ever [<sup>might</sup> "could" stricken out] give law to the whole.

On a question for postponing generally the 1<sup>st</sup>. proposition of Mr Patterson's plan, it was agreed to: N. Y. & N. J. only being no—

["then" stricken out] moved by Mr. King

On the question whether the Committee should rise & ["that" stricken out] Mr Randolphs propositions be re-reported without alteration, which was in fact a question whether Mr R's should be adhered to as preferable to those of Mr Patterson;

Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. N. J. no. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>7a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

insert here from Printed Copy of the Resol<sup>n</sup>. of Mr. R. as altered in the Com<sup>tee</sup>: and reported to Journal p. 13. the House

(Of Mr Randolph's plan as reported [illegible word stricken out] from the Committee). ["before the House"] stricken out] the 1. propos : "that Nat<sup>l</sup> Gov<sup>t</sup> ought to be established consisting &c", <sup>being</sup> taken up in the House.

Mr Wilson observed that by a Nat<sup>l</sup> Gov<sup>t</sup> he did not mean one that would swallow up the State Gov<sup>ts</sup> as seemed to be wished by some gentlemen. He was tenacious of the idea of preserving the latter. He thought, contrary to the opinion of [Col. Hamilton] that they might <sup>not</sup> only subsist ["with"

stricken out] but subsist on friendly terms with the former. They were absolutely necessary for certain purposes which the former could not reach. All large ["countries" stricken out] must be subdivided into lesser jurisdictions. as Examples he mentioned Persia, Rome, and particularly the divisions & subdivisions of <sup>England by</sup> Alfred.

Col. Hamilton coincided with the proposition <sup>as it stood in the Report</sup>. He had not been understood yesterday. By an abolition of the States, he meant that no boundary could be drawn between the National & State Legislatures; that the former must therefore have indefinite authority. If it were limited at all, the rivalry of the States would gradually subvert it. Even as Corporations the extent of some of them as V<sup>a</sup> Mass<sup>ts</sup> &c. would be formidable. ["But" stricken out] As States, he thought they ought to be abolished. But he admitted the necessity of leaving in them, subordinate jurisdictions. The examples of Persia & the Roman Empire, cited by [Mr Wilson] were, he thought in favor of his doctrine: the great powers delegated to the Satraps & proconsuls, having frequently produced revolts, and schemes of independence.

Mr King, wished as every thing depended on this proposition, that no objections might be improperly indulged ag<sup>t</sup> the ["phras" stricken out] phraseology of it. He conceived that the import of the terms "States" "Sovereignty" "national" "federal," had been <sup>often</sup> ["inaccur" stricken out] used & applied in the discussion ["in terms" stricken out] inaccurately & delusively. The States were not "sovereigns" in the sense contended for by some. They did not possess the peculiar features of sovereignty. They could not make war, nor peace, nor alliances, nor treaties. <sup>["could not" stricken out]</sup> ["They raise an army: to" stricken out] Considering them as political Beings, they were

dumb, for they could not speak to any foreign Sovereign whatever. They were deaf, for they could not hear any propositions from such Sovereign. They had not even the organs or faculties of defence or offence, for they could not of themselves raise troops, or equip vessels, for war. On the other side, if the Union of the States comprises the idea of a confederation<sup>de</sup>, it comprises that also of consolidation. A Union of the States is a union of the men composing them, from whence a national character results to the whole. Congress can act alone without the States—they can act & their acts will be binding against the Instructions of the States. If they declare war, war is de jure declared, captures made in pursuance of it are lawful. No acts of the States can vary the [“situ” stricken out] situation, or prevent the judicial consequences. If the States therefore retained some portion of their sovereignty, they had certainly divested themselves of essential portions of it. If they formed a confederacy in some respects—they formed a Nation in others. The Convention could clearly deliberate on & propose any alterations that Congress could<sup>have done under ye. federal articles</sup>, and could not Congress propose by virtue of the last article, any article whatever: And as well that relating to the equality of suffrage, as any other. He made these remarks to obviate some scruples which had been expressed. He doubted much the practicability of annihilating the States; but thought that much of their power ought to be taken from them.

Mr Martin, said he considered that the separation from G. B. placed the 13 States in a state of nature towards each<sup>other</sup>; that they would have remained in that state till this time, but for the confederation; that they entered into the confederation on the footing of equality; that they met now to amend it on the same footing, and that he could never accede to a plan



that would introduce an inequality and lay 10 States at the mercy of V<sup>a</sup> Mass<sup>ts</sup> and Penn<sup>a</sup>

M<sup>r</sup> Wilson, could not admit the doctrine that ["the separation from G. B. rendered" stricken out] when the Colonies became independent of G. Britain, they became independent also of each other. He read the declaration of Independence, observing thereon that the United Colonies were declared to be free & independent States; and inferring that they were independent, not individually but ["as" stricken out] Unitedly and that they confederated as they were independent, States. ["In support of this exposition, he remarked that the Constitutions of all the States <sup>["except that of S illegible" stricken out]</sup> were subsequent to the" stricken out]

<sup>He denied the doctrine that the States were thrown into a State of nature</sup> Col. Hamilton, assented to the doctrine of M<sup>r</sup> Wilson. He was not yet prepared to admit the doctrine that the Confed-<sup>partial</sup>eracy, could be dissolved by <sup>on an equal ["same" stricken out]</sup> infractions of it. He admitted that the States met now ["on the" stricken out] footing but could see no inference from that against concerting a change of the system in this particular. He took this occasion of observing for the <sup>purpose of</sup> appeasin["g" written upon "o", "ut of" half erased] the fears of the States, that two circumstances would render them secure under a national Gov<sup>t</sup> in which they might lose the equality of rank they now hold: one was the situation of the <sup>local</sup> 3 largest States Virg<sup>a</sup> Mas<sup>ts</sup> & P<sup>a</sup> They were separated from each other by distance of place, and equally so by all the peculiarities which distinguish the interests of one State from those of another. No combination therefore could be dreaded. In the second place, as there was a gradation in the States from V<sup>a</sup> the largest down to Delaware the smallest, it would always happen that ambitious combinations among a few States might & w<sup>d</sup> be counteracted by defensive combinations of greater

extent among the rest. No combination has been seen among large Counties merely as such, ag<sup>st</sup> lesser Counties. The more close the Union of the States, and the more compleat the authority of the whole; the less opportunity will be allowed [<sup>the stronger</sup> "for to particular" stricken out] States to injure the weaker.

Adj<sup>d</sup>

Wednesday June 20. 1787. In Convention

M<sup>r</sup>. William Blount from N. Carolina took his seat.

1<sup>st</sup>. propos: of the Report of Com<sup>rs</sup>. of the whole before the House  
2<sup>d</sup>ed. by M<sup>r</sup>. Gorham

M<sup>r</sup> Elseworth moves to alter it so as to run "that the Government of the United States ought to consist of a supreme legislative, Executive and Judiciary". This alteration he said would [<sup>drop</sup> "drop" stricken out] the word national, and retain the proper title "the United States." He could not admit th[<sup>any of</sup> "e" written upon "at"] doctrine that a breach of the federal articles could dissolve the["n" stricken out] whole. It would be highly dangerous not to consider the Confederation as still subsisting. He wished also the plan of the Convention to go forth as an amendment to the articles of Confederation, since under this idea the authority of the Legislatures could ratify [<sup>it</sup> "it" stricken out]. If they are unwilling, the people will be so too. If the plan ["of the" stricken out] goes forth to the people for ratification several succeeding Conventions within the States would be unavoidable. He did not like these conventions. They were better fitted to pull down than to build up Constitutions.

M<sup>r</sup> Randolph did not object to the change of expression, but apprised the gentleman who wished for it that he did not admit it for the reasons assigned; particularly that of getting

rid of a reference to the people for ratification. The motion of Mr Ellw<sup>th</sup> was ["acquiesced in." written upon "agreed to"] nem: con:

The 2<sup>d</sup> Resol<sup>n</sup> "that the national Legislature ought to consist of two branches". taken up. the word "national" struck out as of course.

Mr Lansing, observed that the ["true" stricken out] true question here was, whether the Convention would adhere to or depart from the foundation of the present Confederacy; and moved instead of [<sup>the 2<sup>d</sup></sup> "this" stricken out] Resolution "that the powers of Legislation be vested in <sup>in the U. States</sup> Congress". He had already assigned two reasons ["for" stricken out] ag<sup>t</sup> such an innovation as was proposed. 1. the want of competent powers — 2. the [<sup>in the Convention</sup> "immaturity" stricken out] <sup>State</sup> of the public mind. It had been observed by [Mr Mad]ison] in discussing the first point, that in two States the Delegates to Cong<sup>s</sup> were chosen by the people. Notwithstanding the first appearance of this remark, it had in fact no weight, as the Delegates however chosen, did not represent the people merely as so many individuals; but as forming a sovereign State. [Mr Randolph] put it, he said, on its true footing namely that the public ["good" stricken out] safety superseded the scruple arising from the review of our powers. But in order to feel the force of this consideration, the same impression must be had of the public danger. He had not himself the same impression, and could not therefore dismiss his scruple. [Mr Wilson] contended that as the Convention was only to recommend, they might recommend what they pleased. He differed much from him. [<sup>any act whatever</sup> "any act" stricken out] of so respectable a body must have a great effect, and if it does not [<sup>succeed</sup> "take effect" stricken out], will be a source of great dissensions.

He admitted that there was no certain criterion of the public mind on the subject. He therefore recurred to the evidence of it given by the opposition in the States to the scheme of an Impost. It could not be expected that those possessing Sovereignty could ever voluntarily part with it. It was not to be expected from [<sup>any one</sup> "a single" stricken out] State, much less from thirteen. He proceeded to make some observations on the plan itself and the argum<sup>ts</sup> urged in support of it. The point of Representation could receive no["t" stricken out] elucidation from the case of England. The corruption of the boroughs did not proceed from their comparative smallness: but from the actual fewness of the inhabitants, some of them not having more than one or two. ["As" stricken out]<sup>a</sup> great inequality existed in the Counties of England.<sup>like</sup> Yet the complaint of peculiar corruption in the small ones had not been made. It had been said that ["if" stricken out] Congress represent the State Prejudices: will not any other body whether chosen by the Legislatures or people of the States, also represent their prejudices? It had been asserted by his Colleague [Col. Hamilton] ["the greatest objection ag<sup>st</sup> whose ideas in general was perhaps the repugnance of the people to them," stricken out] that there was no coincidence of interests ["that could" stricken out] among the large States that ought to excite fears of oppression in the smaller. If it were true that such a uniformity of interests existed among the States, there was equal safety for all of them, whether the representation remained as heretofore, or were proportioned as now proposed. It is proposed that the gen<sup>l</sup> Legislature shall have a negative on the laws of the States. Is it conceivable that there will<sup>be</sup> leisure for such a task? there will on the most moderate cal-

culation, be as many ["laws of the passed in" <sup>Acts sent up from</sup> stricken out] the States as there are days in the year. Will the members of the general Legislature be competent Judges? Will a gentleman from Georgia be a Judge of the expediency of a law which is to operate in N. Hampshire. Such a Negative would be more injurious than that of Great Britain heretofore was. . It is said that the National Gov<sup>t</sup> must have the influence arising from the grant of offices and honors. In order to render ["it" <sup>such a Government</sup> stricken out] effectual he believed such an influence to be necessary. But if the States will not agree to it, it is in vain, worse than in vain to <sup>make the proposition.</sup> ["propose" stricken out] If this influence is to be attained, the States must be entirely abolished. Will any one say this would ever be agreed to? He doubted whether any Gen<sup>l</sup> Government equally beneficial to all can be attained. That now under consideration he is sure, must be utterly unattainable. He had another objection. The system was too novel & complex. No man could foresee what its operation will be either with respect to the Gen<sup>l</sup> Gov<sup>t</sup> or the State Gov<sup>ts</sup>. One or other it has been surmised must absorb the whole.

Col. Mason. did not expect this point would have been reagitated. The essential differences between the two plans, had been clearly stated. The principal objections ag<sup>st</sup> that of M<sup>r</sup> R. was the want of power & the want of practicability. There can be no weight in the first as the fiat is not <sup>to be</sup> here, but in the people. He thought with his colleague M<sup>r</sup> R. that there were besides certain crises, in which all the ordinary cautions yielded to public necessity. He gave as an example, the eventual Treaty with G. B. ["which" stricken out] in forming which the Com<sup>rs</sup> of the U. S. had boldly disregarded the improvident shackles of Cong<sup>s</sup> ["and" stricken

out] had given to their Country an honorable & happy peace, and instead of being censured for the transgression of their powers, had reared to themselves a monument ["more dur in the" stricken out] more durable than brass. The impracticability of gaining public concurrence he thought was still more groundless. [M<sup>r</sup> Lansing] had cited the attempts of Congress to gain an enlargement of their powers, and had inferred from the ["disappointment" stricken out] miscarriage of these attempts, the hopelessness of the plan which he<sup>[M<sup>r</sup> L.]</sup> opposed. He thought ["a very" written upon "the gentle"]<sup>viz.</sup> different inference ought to have been drawn; that the plan which [{"he" stricken out] M<sup>r</sup> L.] espoused, and which proposed to augment the powers of Congress, never could be expected to succeed. He meant not to throw any reflections on Congs. as a body, much less on any particular members of it. ["But" stricken out] He meant however to speak his sentiments without reserve on this subject; it was a privilege of Age, and perhaps the only compensation which nature had given for, the privation of so many other enjoyments; and he should not scruple to exercise it freely. Is it to be thought that the people of America, so watchful over their interests; so jealous of their liberties, will give up their all, will surrender both the sword and the purse, to the same body, and that too not chosen immediately by themselves? They never will. They never ought. Will they trust such a body, with the regulation of their trade, with the [{"ir" stricken out}] regulation of their taxes; with all the other great powers, which are in contemplation? Will they give unbounded confidence to a secret Journal—to the intrigues—to the factions which in the nature of things appertain to such an Assembly? If any man [{"y" stricken out}] doubts the existence of these characters



of Congress, let him consult their Journals for the years, 78, 79, & 80—It will be said, that if the people are averse to parting with power, why is it hoped that they will part with it to a National Legislature. The proper answer is that in this case they do not part with power: they only transfer it from one sett of immediate Representatives to another sett. Much has been said of the unsettled state of the mind of the people. He believed the mind of the people of America, as elsewhere, was unsettled as to some points; but settled as to others. In two points he was sure it was well settled. 1. in an attachment to Republican Government. 2. in an attachment to more than one branch in the Legislature. Their constitutions accord so generally in both these circumstances, that they seem to <sup>almost</sup> have been preconcerted. This must either have been a miracle, or have resulted from the genius of the people. The only exceptions to the establishm<sup>t</sup> of two branches in the Legislatures [“are” stricken out]<sup>are</sup> the State of Pa & Cong<sup>s</sup> and the latter the only single one not chosen by the people themselves. What has been the consequence? The people have been constantly averse to giving [“that” stricken out]<sup>that Body</sup> further powers—It was acknowledged by [M<sup>r</sup> Patterson] that his plan could not be enforced without military coercion. Does he consider [“that” stricken out]<sup>the</sup> force of the concession. The most jarring elements of nature; fire & water themselves are not more incompatible than such a mixture of civil liberty and military execution. Will the militia march from one State to another, in order to collect the arrears of taxes from the delinquent members of the Republic? Will they maintain an army for this purpose? Will not the citizens of the invaded State assist one another till they rise as one Man, and shake off the Union altogether. Rebellion is

the only case in which ["the public force can be" stricken  
the military force of the State can be properly  
 out] exerted ag<sup>st</sup> its Citizens. In one point of view he was  
 struck with horror at the prospect of recurring <sup>to</sup> this expedient.  
 To punish the non-payment of taxes with death, was a severity  
 not yet adopted by despotism itself: yet this unexampled  
 cruelty would be mercy compared to a military collection of  
 revenue, in which the bayonet could make no discrimination  
 between the innocent and the guilty. He took this occasion  
 to repeat, that notwithstanding his solicitude to establish a  
 national Government, he never would agree to abolish the  
 State Gov<sup>ts</sup> or render them absolutely insignificant. They  
 were as necessary as the Gen<sup>l</sup> Gov<sup>t</sup> and he would be equally  
 careful to preserve them. He was aware of the difficulty of  
 drawing the line between them, but hoped it was not insur-  
 mountable. The Convention, <sup>tho'</sup> comprising ["as it did" stricken  
 out] so many distinguished characters, could not be expected  
 to make a faultless Gov<sup>t</sup>. And he would prefer trusting to  
 posterity the amendment of its defects, rather than push the  
 experiment too far.

Mr Luther Martin agreed with [Col Mason] as to the  
 importance of the State Gov<sup>ts</sup> he would support them at the  
 expense of the Gen<sup>l</sup> Gov<sup>t</sup> which was instituted for the pur-  
 pose of that support. He saw no necessity for two branches,  
 and if it existed Congress might be organized into two. He  
 considered <sup>Cong</sup> as representing the people, being chosen by the  
 Legislatures who were chosen by the people. At any rate,  
 Congress represented the Legislatures; and it was the Legis-  
 latures not the people who refused to enlarge their powers.  
 Nor could the rule of voting have been the ground of objec-  
 tion, otherwise ["to" stricken out] <sup>ten</sup> of the States must always  
 have been ready, to place further confidence in Cong<sup>s</sup>. The

causes of repugnance must therefore be looked for elsewhere.—at the separation from the British Empire, the people of America preferred the Establishment of themselves into thirteen separate sovereignties instead of [“uniting &” stricken out] incorporating themselves into one: to these they look up for the security of their lives, liberties & properties: to these they must <sup>look up</sup>—The federal Gov<sup>t</sup> they formed, to defend the whole ag<sup>t</sup> foreign nations, in case of war, and to defend the lesser States ag<sup>t</sup> the ambition of the larger: they are afraid of granting powers unnecessarily, lest they should defeat the original end of the Union; lest the [“y” <sup>powers</sup> stricken out] should prove dangerous to the sovereignties of the particular States which the <sup>Union</sup> was meant to support; and expose the lesser to [“the” stricken out] being swallowed up by the [“former” stricken out] larger. He conceived also that the [“States” stricken out] people of the States [“have” <sup>having</sup> stricken out] already vested their powers in their respective Legislatures, could not resume them without a dissolution of their Governments. He was ag<sup>t</sup> Conventions in the States: was not ag<sup>st</sup> assisting States ag<sup>st</sup> rebellious subjects; thought the federal plan of M<sup>r</sup> Patterson did not require coercion more than the national one, as the latter must depend for the [“balance” <sup>deficiency</sup> stricken out] of its revenues on requisitions & quotas, and that a national Judiciary extended into the States would be ineffectual, and would be viewed with a jealousy inconsistent with its usefulness. [“This was the substance of a very long speech” stricken out.]

M<sup>r</sup> Sherman <sup>2d</sup>led & supported M<sup>r</sup> Lansing’s motion. He admitted two branches to be necessary in the State Legislatures, but saw no necessity for them in a Confederacy of States, [“which had always” stricken out]. The Examples were all, of a

single Council. Congs. carried us thro' the war, and perhaps as well as any Gov<sup>t</sup> could have done. The complaints at present are not that the views of Cong<sup>s</sup> are unwise or unfaithful, but that that their powers are insufficient for the execution of their views. The national debt & the want of power somewhere to draw forth the National resources, are the great matters that press. All the States were sensible of the defect of power in Cong<sup>s</sup>. He thought much might be said in apology for the failure of the ["States" <sup>State Legislatures</sup> stricken out] to comply with the confederation. They were afraid of bearing too hard on the people, by accumulating taxes; no constitutional rule had been or could be observed in ["in" stricken out] the quotas,—the accounts also were unsettled & every State supposed itself in advance, rather <sup>than in</sup> ["th" stricken out] arrears. For want of a general system ["direct" stricken out] taxes ["in" stricken out] to a due amount had not been drawn from trade which was the most convenient resource. As almost all the States had agreed to the recommendation of Cong<sup>s</sup> on the subject of an impost, it appeared clearly that <sup>they</sup> were willing to ["trust" stricken out] trust Cong<sup>s</sup> with ["more power" <sup>power to draw a revenue from Trade</sup> stricken out]. There is no weight therefore in the argument drawn from a distrust of Cong<sup>s</sup> for money matters being the most important of all, if the people will trust them with power as to them, they will trust them with any other necessary powers. Cong<sup>s</sup> ["have" stricken out] indeed by the confederation have in fact the right of saying how much the people shall pay, and ["for what" stricken out] to what purpose it shall be applied: and this right was granted to them in the expectation that it would in all cases have its effect. If another branch were to be added to Cong<sup>s</sup> to be chosen by the people, it would serve to embarrass. The

people would not much interest themselves in the elections, a few designing men in the large districts would carry their points, and the people would have no more confidence in their new representatives than in Cong<sup>s</sup>. He saw no reason why the State Legislatures should be unfriendly as had been suggested, to Cong<sup>s</sup>. If they appoint Cong<sup>s</sup> and approve of their measures, they would be rather favorable and partial to them. The disparity of the States in point of size he perceived was the main difficulty. But the large States had not yet suffered from the equality of votes enjoyed by the small ones. In all great and general points, the interests of all the States were the same. The State of Virg<sup>a</sup> notwithstanding the equality of votes, ratified the Confederation without, or <sup>even</sup> proposing, any ["other" stricken out] alteration. Mass<sup>t</sup> also ratified without any material difficulty &c. In none of the ratifications is the [<sup>want</sup>"expediency" stricken out] of two branches noticed or complained of. To consolidate the States as some had proposed would dissolve our Treaties with foreign nations, which had been formed with us, as Confederated States. He did not however suppose that the creation of two branches in the Legislature would have such an effect. If the difficulty on the subject of representation can not be otherwise got over, he would agree to have two branches, and a proportional representation in one of them, provided each State had an equal voice in the other. This was necessary to secure the rights of the lesser States; otherwise three or four of the large States would rule the others as they please. Each State had <sup>like each individual</sup> its peculiar habits usages and manners, which constituted its happiness. ["of the people. As the individual who enters into Society retains the right of seeking his own happiness" stricken out]. It would not therefore give to others a power

over this happiness, any more than an individual would do, when he could avoid it.

Mr Wilson, urged the necessity of two branches; observed that if a proper model was not to be found in [<sup>other</sup>“the” stricken out] Confederacies it was not to be wondered at. The number of them was <sup>small</sup> & the duration of some at least short. The Amphyctionic & Achæan were formed in the infancy of political Science; and appear by their History & fate, to have contained radical defects. The Swiss & Belgic Confederacies were held together by the incumbent pressure of <sup>formidable</sup>neighbouring nations: [<sup>not by any vital principle of energy but</sup>“not by any” stricken out] The German owed its continuance to the influence of the H. of Austria. He appealed to our own experience for the defects of our Confederacy. He had been 6 years in the 12 [<sup>all</sup>“of” stricken out] since the commencement of the Revolution, a member of Congress and had [<sup>all</sup>“fully” stricken out] felt its weaknesses. He appealed to the recollection of others whether on many important occasions, the public interest had not been obstructed by the <sup>small</sup>members of the Union. The success of the Revolution <sup>was</sup>owing to other causes, than the Constitution of <sup>Congress</sup>of [<sup>^</sup>“Cong<sup>s</sup>” stricken out]. In many instances it went on even ag<sup>st</sup> the difficulties arising from Cong<sup>s</sup> themselves— He admitted that the large States did accede as had been stated, to the Confederation in its present form. But it was the effect of necessity not of choice. There are other instances of their yielding from the same motive to the unreasonable measures of the small States. The situation of things is now a little altered. He insisted that a jealousy would exist between the State Legislatures & the General Legislature: observing that the members of the former would have views & feelings very distinct in this respect from their constituents. A private



citizen of a State is indifferent whether power be exercised by the Gen<sup>l</sup> or State Legislatures, provided it be exercised most for his happiness. His representative has an interest in its being exercised by the body to which he belongs. He will therefore view the National Legisl: with the eye of a jealous rival. He observed that the addresses of Cong<sup>s</sup> to the people at large, had always been better received & produced greater effect, than those ["t" stricken out] made to the Legislatures.

On the question for postponing in order to take up M<sup>r</sup> Lausings proposition "to vest the power of Legislation in Cong<sup>s</sup>."

Mass<sup>t</sup> no. Con<sup>t</sup> ay. <sup>N. Y. ay.</sup> N. J. ay. Pa<sup>a</sup> no. Del. ay M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no. N. C. no. S. C. no. Geo. no

On motion of the Deputies from Delaware, the question on the 2<sup>d</sup> Resolution in the Report from the Committee of the whole was postponed till tomorrow.

adj<sup>d</sup>

Thursday June 21. in Convention

From June 21 to  
July 1<sup>st</sup> inclusive  
not copied by Mr.  
Eppes

M<sup>r</sup> Jonathan Dayton from N. Jersey took his seat.

Doct<sup>r</sup> Johnson. On a comparison of the two plans which had been proposed from Virginia & N. Jersey, it appeared that the peculiarity which characterized the latter was its being calculated to preserve the individuality of the States. The plan from V<sup>a</sup> did not profess to destroy this individuality altogether, but was charged with such a tendency. One Gentleman alone (Col. Hamilton) in his animadversions on the plan of N. Jersey, boldly and decisively contended for an <sup>abolition</sup> ["abolition" stricken out] of the State Gov<sup>ts</sup>. M<sup>r</sup> Wilson &

the gentleman from Virg<sup>a</sup> who also were adversaries of the plan of N. Jersey held a different language. They wished to leave the States in possession of a considerable, tho' subordinate jurisdiction. They had not yet however shewn how this c<sup>d</sup> consist with, or be secured ag<sup>st</sup> the general sovereignty & jurisdiction, which they proposed to give to the national Government. If this could be shewn in such a manner as to satisfy the ["preference of the N. Jersey"<sup>patrons of the N. Jersey</sup> stricken out]<sup>^</sup> propositions, that the individuality of the States would not be endangered, many of their objections would no doubt be removed. If this could not be shewn their objections would have their full force. He wished it therefore to be well considered whether in case the States, as was proposed, sh<sup>d</sup> retain some ["portion of portion"<sup>portion</sup> stricken out]<sup>^</sup> of sovereignty at least, this portion could be preserved, without allowing them to participate effectually in the Gen<sup>l</sup> Gov<sup>t</sup>, without giving them each a distinct and equal vote for the purpose of defending themselves in the general Councils.

Mr Wilson's respect for Dr Johnson, added to the importance of the subject led him to attempt, unprepared as he was, to solve the difficulty which had been started. It was asked how the gen<sup>l</sup> Gov<sup>t</sup> and individuality of the particular States could be reconciled to each other; and how the latter could be secured ag<sup>st</sup> the former? Might it not, on the other side be asked how the former was to be secured ag<sup>st</sup> the latter? It was generally admitted that a jealousy & rivalry would be felt between the Gen<sup>l</sup> & particular Gov<sup>ts</sup>. As the plan now stood, tho' indeed contrary to his opinion, one branch of the Gen<sup>l</sup>—Gov<sup>t</sup> (the Senate or second branch) was to be ["appointed"<sup>appointed</sup> stricken out] by the State Legislatures. The State Legislatures, therefore, by this participation in the Gen<sup>l</sup>

Gov<sup>t</sup> would have an opportunity of defending their rights. Ought not a reciprocal opportunity to be given to the Gen<sup>l</sup> Gov<sup>t</sup> of defending itself by having an appointment of some one constituent branch of the State Gov<sup>t</sup>. If a security be necessary on one side, it w<sup>d</sup> seem reasonable to demand it on the other: But ["take" stricken out] taking the matter in a more general view, he saw no danger to the States from the Gen<sup>l</sup> Gov<sup>t</sup>. In case a combination should be made <sup>by the large</sup> ["among large" stricken out] ones it w<sup>d</sup> produce a general alarm among the rest; and the project w<sup>d</sup> be frustrated. But there was no temptation to such a project. The States having in general a similar interest, in case any proposition in <sup>of</sup> the National Legislature to encroach on the State Legislatures, he conceived a general alarm w<sup>d</sup> take place in the National Legislature itself, that it would communicate itself to the State Legislatures, and w<sup>d</sup> finally spread among the people at large. The Gen<sup>l</sup> Gov<sup>t</sup> will be as ready to preserve the rights of the States as the latter are to preserve the rights of individuals; all the members of the former, having a common interest, as representatives of all the people of the latter, to leave the State Gov<sup>ts</sup> in possession of what the people wish them to retain. He could not [illegible word stricken out] discover, therefore any danger ["what" stricken out] whatever on the side from which it had been apprehended. On the contrary, ["he" stricken out] he conceived that in spite of every precaution ["the Gen<sup>l</sup>" stricken out] <sup>the General</sup> Gov<sup>t</sup> would be in perpetual danger of encroachments from the State Gov<sup>ts</sup>.

M<sup>r</sup> Madison was of opinion that there was 1. less danger of encroachment from the Gen<sup>l</sup> Gov<sup>t</sup> than from the State Gov<sup>ts</sup> 2. that the mischief <sup>from</sup> ["of" stricken out] encroachments would be less fatal if made by the former, than if made by the latter.

1. All the examples of other confederacies prove the greater tendency in such systems to anarchy than to tyranny; to disobedience of the members than to usurpations of the federal head. Our own experience had fully illustrated this tendency.—But it will be said that the proposed change in the principles & form of the Union will vary the tendency, that the Gen<sup>l</sup> Gov<sup>t</sup> will have real & greater powers, and will be derived in one branch at least from <sup>the people not from</sup> the Gov<sup>ts</sup> of the States. To give full force to this objection, let it be supposed for a moment that <sup>indefinite</sup> [“indefinity” stricken out] power should be given to the Gen<sup>l</sup> Legislature, and the States reduced to corporations dependent on the Gen<sup>l</sup> Legislature; why sh<sup>d</sup> it follow that the Gen<sup>l</sup> Gov<sup>t</sup> w<sup>d</sup> take from the States [“<sup>any</sup> one” stricken out] branch of their power as far as its operation was beneficial, and its continuance desirable to the people? In some of the States, particularly in Connecticut, all the Townships are incorporated, and have a certain limited jurisdiction. Have the Representatives of the people of the Townships in the Legislature of the State ever [illegible word stricken out] endeavored to despoil the Townships of any part of their local authority? As far as this local authority is convenient to the people they are attached to it; and their representatives chosen <sup>by &</sup> [“by auth” stricken out] amenable to them <sup>naturally</sup> respect their attachment to this, as much as their attachment to any other right or interest: The relation of a Gen<sup>l</sup> Gov<sup>t</sup> to State Gov<sup>ts</sup> is parallel. [“He holds” stricken out] 2. Guards were more necessary ag<sup>st</sup> [“an abolition” stricken out] <sup>encroachments</sup> of the State Gov<sup>ts</sup>—on the Gen<sup>l</sup> Gov<sup>t</sup> than of the latter on the former. The great objection made ag<sup>st</sup> an abolition of the State Gov<sup>ts</sup> was that the Gen<sup>l</sup> Gov<sup>t</sup> could not extend its care to all the minute objects which fall under the

cognizance of the local jurisdictions. The objection ["was as" stricken out] as stated lay not ag<sup>t</sup> the probable abuse of the general power, but ag<sup>t</sup> the imperfect use that could be made of it throughout so great an extent of country, and over so great a variety of objects. As far as its operation would be practicable it could not in this view be improper; as far as ["its operation" stricken out] it would be impracticable, the [illegible word stricken out] <sup>conveniency</sup> of the Gen<sup>l</sup> Gov<sup>t</sup> itself would concur with that of the people in the maintenance of subordinate Governments. Were it practicable for the Gen<sup>l</sup> Gov<sup>t</sup> to extend its care to every requisite object [illegible word stricken out] without the cooperation of the State Gov<sup>ts</sup> the people would not be less free as members of one great Republic than as members of thirteen small ones. A citizen of Delaware was not more free than a citizen of Virginia: nor would either be more free than a citizen of America. Supposing therefore a tendency in the Gen<sup>l</sup> Government to absorb the State Gov<sup>ts</sup> no fatal consequence would result. Taking the reverse of the supposition, that a tendency should be left in the State Gov<sup>ts</sup> towards an independence on the General Gov<sup>t</sup> and the gloomy consequences need not be pointed out. The imagination of them, must have suggested to the States the experiment we are now making to prevent the calamity, and must have formed the chief motive with those present to undertake the arduous task.

On the question for resolving "that the Legislature ought to consist of two Branches"

Mass ay. Con<sup>t</sup> ay. N. Y. no. <sup>N. Jersey no</sup> P<sup>a</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay

The third resolution of the Report taken into consideration.

Gen<sup>l</sup> Pinkney moved "that the 1<sup>st</sup> branch, instead of being

elected by the people, sh<sup>d</sup> be elected in such manner as the Legislature of each State should direct". He urged 1. that this liberty would give more satisfaction, as the Legislature could then accomodate the mode to the conveniency & opinions of the people. 2. that it would avoid the undue influence of large Counties which would prevail if the elections were to be made in districts as must be the mode intended by the Report of the Committee. 3. that otherwise disputed elections must be referred to the General Legislature ["all" stricken out] which would be attended with intolerable expence and trouble to the distant parts of the republic.

M<sup>r</sup> L. Martin seconded the Motion.

Col. Hamilton considered the motion as intended manifestly to transfer the election from the people to the <sup>state</sup> Legislatures, which would essentially vitiate the plan. It would increase that State influence which could not be too watchfully guarded ag<sup>st</sup>. All too must admit the possibility, in case the Gen<sup>l</sup> Gov<sup>t</sup> sh<sup>d</sup> maintain itself, that the State Gov<sup>ts</sup> might gradually dwindle into nothing. The system therefore sh<sup>d</sup> not be engrafted on what might <sup>possibly</sup> fail.

M<sup>r</sup> Mason urged the necessity of retaining the election by the people. Whatever inconveniency may attend the democratic principle, it must actuate one part of the Gov<sup>t</sup>. It is the only security for the rights of the people.

M<sup>r</sup> Sherman, would like an election by the Legislatures, best, but is content with plan as it stands.

M<sup>r</sup> Rutledge could not admit the solidity of the distinction between a mediate & immediate election by the people. It was the same thing to act by oneself, and to act by another. An election by the Legislature would be more refined than an election immediately by the people: and would be more likely



to correspond with the sense of the whole community. If this Convention had been chosen by the people ["at large" stricken out<sup>in districts</sup>] it is not to be supposed that such proper characters would have been preferred. The Delegates to Congress he thought had also been fitter men than would have been appointed by the people at large.

Mr Wilson considered the election of the 1<sup>st</sup> branch by the people <sup>not only</sup> as the corner Stone, but as the foundation of the fabric: and that the difference between ["the" stricken out] a mediate & immediate election was immense. The difference was particularly worthy of notice in this respect: that the Legislatures ["have an not" illegible word "the" stricken out] are actuated not merely by the sentiment of the people; but have an official sentiment opposed to that of the Gen<sup>l</sup> Gov<sup>t</sup> and perhaps of that of the people themselves.

Mr King enlarged on the same distinction. He supposed the Legislatures w<sup>d</sup> constantly choose men subservient to their own views as contrasted to the general interest; and that they might even devise modes of election that w<sup>d</sup> be subversive of the end in view. He remarked several instances in which the views of a State might be at variance with those of the Gen<sup>l</sup> Gov<sup>t</sup> and mentioned particularly a competition between the National & State debts, for the most certain & productive funds.

Gen<sup>l</sup> Pinkney was for making <sup>the</sup> State Govt<sup>s</sup> a part of the General System. If they were to be abolished, or lose their agency, S. Carolina & ["the" stricken out] other States would have but a small share of the benefits of Gov<sup>t</sup>.

On the question for Gen<sup>l</sup> Pinkney motion to substitute election of 1<sup>st</sup> branch ["by" stricken out] in such mode as the Legislatures should appoint, in stead of elect<sup>its being</sup> ["ed" written upon "ing"] ["it" stricken out] by the people"

Mass<sup>t</sup> no. Conn<sup>t</sup> ay. N. Y. no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup>  
div<sup>d</sup> V<sup>a</sup> no. N. C. no. S. C. ay Geo. no.

Gen<sup>l</sup> Pinkney then moved that the 1<sup>st</sup> branch be elected  
by the people in such mode as the Legislatures should direct;  
but waved it on its being hinted that such a provision might  
be more properly tried in the detail of the plan.

On the question for<sup>ye</sup> election of the 1<sup>st</sup> branch by the people"

Mass<sup>ts</sup> ay. Conn<sup>t</sup> ay. N. Y. ay. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup>  
div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. ay Geo. ay.

Election of the 1<sup>st</sup> branch "for the term of three years,"  
considered

M<sup>r</sup> Randolph ["was sensible" stricken out] moved to strike  
out, "three years" and insert "two years"— he was sensible  
that annual elections were a source of great mischiefs in the  
States, yet it was the want of such checks ag<sup>st</sup> the popular  
intemperance as were now proposed, that rendered them so  
mischievous. He would have preferred annual to biennial,  
but for the extent of the U. S. and the inconveniency which  
would result from them to the representatives of the extreme  
parts of the Empire. The people were attached to frequency  
of elections. All the Constitutions of the States except that  
of S. Carolina, had established annual elections.

M<sup>r</sup> Dickenson. The idea of annual elections was borrowed  
from the antient usage of England, ["which is mu" stricken  
out] a country much less extensive than ours. He supposed  
biennial would be inconvenient. He preferred triennial; and  
in order to prevent the inconveniency of an entire change of  
the whole number at the same moment, suggested a rotation,  
by<sup>an</sup> annual election of one third.

M<sup>r</sup> Elsworth was opposed to three years, supposing that  
even one year was preferable to two years. The people were

fond of frequent elections and might be safely indulged in one branch of the Legislature. He moved for 1 year.

M<sup>r</sup> Strong <sup>& supported</sup> seconded the motion.

M<sup>r</sup> Wilson being for making the 1<sup>st</sup> branch an effectual representation of the people at large, preferred an annual election of it. This frequency was most familiar & pleasing to the people. It would be not more inconvenient to them, than triennial elections, as the people in all the States have annual meetings [<sup>with which</sup> "at which" stricken out] the election of the National representatives might be made to coin—cide. He did not conceive that it would be necessary for the Nat<sup>l</sup> Legislat: to sit constantly; perhaps not half—perhaps not one fourth of the year.

M<sup>r</sup> Madison was persuaded that annual elections would be extremely inconvenient and apprehensive that biennial would be too much <sup>so</sup>: he did not mean inconvenient [<sup>so</sup> "to the" stricken out] to the electors; but to the representatives. ["It would be too much to expe" stricken out] They would have to travel seven or eight hundred miles from the distant parts of the <sup>Union</sup> ["Union" stricken out]; and would probably not be allowed even a reimbursement of their expenses. Besides, ["all the" stricken out] none of those who wished to be re-elected would remain at the seat of Govern<sup>t</sup> ["in" stricken out] confiding that their absence would not affect them. The members of Cong<sup>s</sup> had done this with few instances of disappointment. But as the choice was here to be made by the people themselves who would be much less complaisant to individuals, and much more susceptible of ["the" stricken out] impressions from the presence of a Rival candidate <sup>["than the Legislatures had been" half erased]</sup>, it must be supposed that the members from the <sup>most</sup> distant States would travel backwards & forwards at

least as often as the elections should be repeated. Much was to be said also on the time requisite for new members <sup>who</sup> ["of which the Legisl<sup>ch</sup>" stricken out] would always form a large proportion, to acquire that knowledge of the affairs of the States in general without which their <sup>trust</sup> ["duty" stricken out] could not be usefully discharged.

Mr Sherman preferred annual elections, but would be content with biennial. He thought the representatives ought to return home and mix with the people ["in every" stricken out]. By remaining at the seat of Gov<sup>t</sup> they would acquire <sup>the</sup> habits of the place which might differ from those of their Constituents.

Col. Mason observed that the States [illegible word stricken out] being differently situated such a rule ought to be formed as would put them as nearly as possible on a level. If elections were annual the middle States would have a great advantage over the extreme ones. He wished them to be biennial; and the rather as in that case they would coincide with the periodical elections of S. Carolina as well as of the other States.

Col<sup>d</sup> Hamilton urged the necessity of 3 years.<sup>1</sup> there ought to be neither too much nor too little dependence, on the popular sentiments. The checks in the other branches of Govern<sup>t</sup> would be but feeble, and would <sup>need</sup> every auxiliary principle that The British House of Commons were elected septennially, yet the democratic spirit of y<sup>e</sup> Constitution had not ceased could be interwoven. Frequency of elections tended to make the people listless to them; and to facilitate the success of little cabals. This evil was complained of in all the States. In Virg<sup>a</sup> it had been <sup>lately</sup> found necessary to force the attendance & voting of the people by severe regulations.

On the question for striking out "three years"

Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. N. J. div<sup>d</sup> P<sup>a</sup> ay. Del. no. M<sup>d</sup> no.  
V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

The motion for "two years." <sup>was then</sup> inserted nem. con.

Adj<sup>d</sup>

Friday June 22. in Convention

The clause <sup>in Resol. 3</sup> "to receive fixed stipends to be ["paid" stricken out] paid out of the Nation<sup>l</sup> Treasury" considered.

M<sup>r</sup> Elsworth, moved to substitute payment by the States [illegible word stricken out<sup>out</sup>] of their own Treasurys: observing that the manners of different States were very different in the Stile of living and in the profits accruing from the exercise of like talents. What would be deemed therefore a reasonable compensation ["by" <sup>in</sup> stricken out] some States, in others would be very unpopular, and might impede the system of which it made a part.

M<sup>r</sup> Williamson favored the idea. He reminded the House of the prospect of new States to the Westward. They would be poor—would pay little into the common Treasury—and would have a different interest from the old States. He did not <sup>think</sup> therefore that the latter ought to pay the expenses of the men who would be employed in thwarting their measures & interests.

M<sup>r</sup> Ghorum, wished not to refer the matter to the State Legislatures who were always paring down salaries in such a manner as to keep out of offices men most capable of executing the functions of them. He thought also it would be wrong to fix the compensations by the constitutions, because we could not venture to make it as liberal as it ought to be without exciting our enmity ag<sup>t</sup> the whole plan. Let the Nat<sup>l</sup> Legis<sup>l</sup>: provide for their own wages from time to time; as the

State Legislatures do. He had not seen this part of their power abused, nor did he apprehend an abuse of it.

Mr Randolph feared we were going too far, in consulting popular prejudices. Whatever respect might be due to them, ["when" stricken out] in lesser matters, or in cases where they formed the ["ir" stricken out] permanent character <sup>of the people</sup> <sub>^</sub>, he thought it neither incumbent on nor honorable for the Convention, to sacrifice right & justice to that consideration. If the States were to pay the members of the Nat<sup>l</sup> Legislature, a dependence would be created that would vitiate the whole System. The whole nation has an interest in the attendance & services of the members. The Nation<sup>l</sup> Treasury therefore is the proper fund for supporting them

Mr King, urged the danger of ["referring" stricken out] creating a dependence on the States by leav<sup>g</sup> to them the ["appointment" stricken out] payment of the members of the Nat<sup>l</sup> Legislature. He supposed it w<sup>d</sup> be best to be explicit as to the compensation to be allowed. A reserve on that point, or a reference to the Nat<sup>l</sup> Legislature of the quantum, would excite greater opposition than any sum that would be actually necessary or proper.

Mr Sherman contended for referring <sup>both</sup> <sub>^</sub> the quantum and the payment of it to the State Legislatures.

Mr Wilson was ag<sup>st</sup> fixing the compensation as circumstances would change and call for a change of the amount. He thought it of great moment that the members of the Nat<sup>l</sup> Gov<sup>t</sup> should be left as independent <sup>as possible</sup> of the State Gov<sup>ts</sup> in all respects.

Mr <sup>Madison</sup> concurred in the necessity of <sup>compensations for the</sup> preserving the Nat<sup>l</sup> Gov<sup>t</sup> independent on the State Gov<sup>t</sup> <sup>but at the same time</sup> ["still" stricken out] <sup>by the constitution</sup> <sub>^</sub> approved of fixing them <sub>m</sub> ["compensation" stricken out],



which might be done by taking a standard which w<sup>d</sup> not vary with circumstances. He disliked particularly the policy suggested by M<sup>r</sup> Williamson of leaving the members from the poor States beyond the Mountains, to the precarious & parsimonious support of their constituents. If the Western States hereafter arising should be admitted into the Union, they ought to be considered as equals & as brethren. If their representatives were to be associated in the Common Councils, it was of common concern that such provisions should be made as would invite the most capable and respectable characters into the service.

M<sup>r</sup> Hamilton apprehended inconveniency from fixing the wages. He was strenuous ag<sup>st</sup> making the National Council dependent on the Legislative rewards of the States. Those who pay are the masters of those who are paid. Payment by the States would be [<sup>unequal as</sup> "unjust to" stricken out] the distant States would have to pay <sup>for</sup> the same term of attendance and more days in travelling to & from the seat of the Gov<sup>t</sup>. He expatiated emphatically on the difference between the feelings & views of the people—& the Governments of the States arising from the personal interest & official inducements which must [<sup>latter</sup> "exist" stricken out] render the [<sup>m</sup> "m" stricken out] unfriendly to the Gen<sup>l</sup> Gov<sup>t</sup>.

M<sup>r</sup> Wilson moved that the salaries of the 1<sup>st</sup> branch "be ascertained by the National Legislature," and be paid out of the Nat<sup>l</sup> Treasury.

Mr. Madison, thought the members of the Legisl. too much interested to ascertain their own compensation. It w<sup>d</sup> be indecent to put their hands into the public purse for the sake of their own pockets.

On this question Mas. no. Con. no. N. Y. div<sup>d</sup> N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. [<sup>no</sup> "ay" stricken out] S. C. [<sup>no</sup> "ay" stricken out] Geo. [<sup>div<sup>d</sup></sup> "ay" stricken out].

On the question for striking out "Nat<sup>l</sup> Treasury" as moved by M<sup>r</sup> Elseworth

Mr. Hamilton renewed his opposition ["to" stricken out] to it. He pressed the distinction between ["the" stricken out] <sup>State</sup> Gov<sup>ts</sup>. & the people. The former wd. be the rivals of the Gen<sup>l</sup> Gov<sup>t</sup>. The State legislatures ought not therefore to be the pay masters of the latter. ¶ Mr. Elseworth. If we are jealous of the State Gov<sup>ts</sup>, they will be so of us. If on going home I tell them we gave the Gen<sup>l</sup> Gov<sup>t</sup> such powers because we cd. not trust you.—will they adopt it. [illegible word stricken out] & with<sup>l</sup>. y<sup>r</sup>. approbation it is a nullity. ¶ Mas<sup>ts</sup> ay. Con<sup>t</sup>

ay. N. Y. div<sup>d</sup> N. J. no. Pen<sup>a</sup> no. Del. no M<sup>d</sup> no. V<sup>a</sup> no, N. C. ay. S. C. ay. Geo. div<sup>d</sup> Note. [It appeared that ["some" stricken out] Mass<sup>ts</sup> concurred, not because they thought the State Treas<sup>y</sup> ought to be substituted; but because they thought nothing should ["b" stricken out] be said on the subject, in which case it w<sup>d</sup> silently devolve on the Nat<sup>l</sup> Treasury to support the National Legislature.]

On ["the" stricken out] <sup>a</sup> question for substituting "adequate compensation" in place of "fixt Stipends" it was agreed to nem. con. the friends of the latter being willing that the practicability of fixing the compensation should be considered hereafter in forming the details.

It was then moved by M<sup>r</sup> Butler that a question be taken on both points jointly; to wit "adequate compensation to be paid out of the Nat<sup>l</sup> Treasury." It was objected to as out of order, the parts having been separately decided on. The Presid<sup>t</sup> refer<sup>d</sup> the question of order to the House, and it was <sup>Con. N. J. Del. M<sup>d</sup>. N. C. S. C.—ay—N. Y. Pa. Va. Geo. no—Mass: divided.</sup> The question on the determined to be in order. ["The question on the" stricken out] sentence was then postponed by S. Carolina in right of the State.

Col. Mason moved to insert "twenty five years of age as ["a" written upon "one"] qualification for the members of the 1<sup>st</sup> branch". He thought it absurd that a man to day should not be permitted by the law to make a bargain for

himself, and tomorrow should be authorized to manage the affairs of a great nation. It was the more extraordinary as every man carried with him in his own experience a scale for measuring the deficiency of young politicians; since he would if interrogated be obliged to declare that his political opinions at the age of 21. were too crude & erroneous to merit an influence on public measures. It had been said that ["public" stricken out] Cong<sup>d</sup> had proved a good school for our young men. It might be so for any thing he knew but if it were, he chose that they should bear the expense of their own education.

M<sup>r</sup> Wilson was ag<sup>st</sup> abridging the rights of election in ["any" stricken out]<sup>any</sup> shape. It was the same thing whether this were done by disqualifying the objects of choice, or the persons chusing. The motion tended to damp the efforts of genius, and of laudable ambition. There was no more reason for incapacitating ["the <sup>youth</sup> youth" stricken out] than age, when the requisite qualifications were found. Many instances might be mentioned of signal services rendered to the public before the age of 25: The present M<sup>r</sup> Pitt and Lord Bolingbroke were striking intances<sup>in high station</sup>.

On the question for inserting "25 years of age"

Mass<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. div<sup>d</sup> ["P<sup>a</sup> no" stricken out] N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no.

M<sup>r</sup> Ghorum moved to strike out the last ["cl" stricken out]<sup>the</sup> member of 3 Resol: concerning ineligibility of members of 1<sup>st</sup> branch to offices, during the term of their membership & for one year after. He considered it as unnecessary & injurious. It was true abuses had been displayed in G. B. but no one cl<sup>d</sup> say how far they might have contributed to pre-serve the due influence of the Gov<sup>t</sup> nor what might have ensued in case ["it" stricken out]<sup>contrary</sup> the theory ["of" illegible word stricken out] had been tried.

Mr Butler opposed it. this precaution ag<sup>st</sup> intrigue was necessary. He appealed to the example of G. B. where men got into Parl<sup>t</sup>. that they might get offices for themselves or their friends. This was the source of the corruption that ["ruined their Gov<sup>t</sup>" stricken out] ruined their Gov<sup>t</sup>.

Mr King, thought we were refining too much. Such a restriction on the members would discourage merit. It would also give a pretext to the Executive for bad appointments, as he might always plead this as a bar to the choice he wished to have made.

Mr Wilson was ag<sup>st</sup> fettering elections, and discouraging merit. He suggested also the fatal consequence in time of war, of rendering the best <sup>perhaps</sup> Commanders ineligible: appealing to our situation during the late <sup>war</sup>, and indirectly leading to a recollection of the appointment of the Com<sup>mander</sup> in Chief out of Congress.

Col. Mason was for shutting the door at all events ag<sup>st</sup> corruption. He enlarged on the venality and abuses in this particular in G. Britain: and alluded ["to the" stricken out] to the multiplicity of foreign Embassies by Cong<sup>s</sup>. The disqualification he regarded as a corner stone in the fabric.

Col. Hamilton. [illegible words stricken out] There are inconveniences on both sides. We must take man as we find him, and if we expect him to serve the public must interest his passions in doing so. A reliance on pure patriotism had been the source of many of our errors. He thought the remark of Mr Ghorum a just one. It was impossible to say what w<sup>d</sup> ["have" stricken out] be effect in G. B of such a reform as had been urged. It was known that <sup>one</sup> of the ablest politicians [Mr Hume] had pronounced all that influence on the side of the crown, which went under the name of corruption, an essential part of the weight ["in that scale which preserves" stricken out] which maintained the equilibrium of the Constitution.

On Mr Ghorum's Motion for striking out "ineligibility"

Mas<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. div<sup>d</sup> N. J. ay. P<sup>a</sup> div<sup>d</sup> Del. div<sup>d</sup> Mar<sup>d</sup>  
no. V<sup>a</sup> no. N. C. ay. S—C. no—Geo ay  
adj<sup>d</sup>

### Saturday June 23. in Convention

The 3. Resol: resumed.

On Question yesterday postponed by S. Carol: for agreeing to the whole sentence "for allowing an adequate compensation to be paid out of the Treasury of the U. States"

Mas<sup>s</sup> ay. Con<sup>t</sup> no. N. Y. no. N. J. <sup>Pen<sup>a</sup>. ay</sup> ay. Del. no. M<sup>d</sup> ["div<sup>d</sup>" stricken out]<sup>ay.</sup> V<sup>a</sup> ay. N. C. no. S. C. no. Geo. divided. So the question was lost, & the sentence not inserted.

Gen<sup>l</sup> Pinkney moves to strike out the ineligibility of members of the 1<sup>st</sup> branch to offices established "by a particular State." He argued from the inconveniency to which such a restriction would expose both the members of the 1<sup>st</sup> branch, and the States wishing for their services; ["& the" stricken out] from the ["small additional addition which the removal of it would make to the dependence of this w<sup>ch</sup> <sup>["branch" stricken out]</sup> was meant to be dependant" stricken out] smallness of the object to be attained by the restriction. It w<sup>d</sup> seem from the ideas of some that we <sup>are</sup> erecting a Kingdom to be divided ag<sup>st</sup>. itself. he disapproved such a fetter on the Legislature

It w<sup>d</sup>. seem that we are erecting a Kingdom [<sup>to act ag<sup>st</sup>," stricken out</sup>] at war with itself. Mr Sherman seconds the motion. ["and on the Question" The Legislature ought not to be fettered in such a case stricken out]

on the question

Mas<sup>s</sup> no. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. ["M<sup>d</sup> div<sup>d</sup>" stricken out] Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay

Mr Madison renewed [<sup>his</sup> "a" stricken out] motion yesterday made & waved to ["restrain the ineligibility of members of the 1<sup>st</sup> branch to so that they might be elected to any office

not established, or the emoluments of which should not be augmented" stricken out] render the members of the 1<sup>st</sup> branch "ineligible during their term of service, & for one year after—to <sup>such offices only as</sup> ["offices than" illegible word stricken out] <sup>["which" stricken out]</sup>. should be established, or the emoluments thereof, augmented by the Legislature of the U. States during the time of their being members." He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most ["to" stricken out] experienced, & that if the door was shut ag<sup>st</sup> them, ["that" stricken out] it might properly be left open for the appoint<sup>t</sup> of members to other offices as an encouragm<sup>t</sup> to the Legislative service.

M<sup>r</sup> Alex: Martin seconded the motion.

M<sup>r</sup>. Butler. The amend<sup>t</sup>. does not go far eno<sup>t</sup> & w<sup>d</sup>. be easily evaded

M<sup>r</sup> Rutledge, was for preserving the Legislature as pure as possible, by shutting the door against appointments of its own members to offices, which was one source of its corruption.

M<sup>r</sup> Mason. The motion of [<sup>my colleague</sup> "M<sup>r</sup> Madison" stricken out] is but a partial remedy for the evil. He appealed to [<sup>him</sup> "M<sup>r</sup> M." stricken out] as a witness of the shameful partiality of the Legislature of Virginia to its own members. He enlarged on the abuses & corruption in the British Parliament, connected with the appointment of its members. He c<sup>d</sup> not suppose that a sufficient number of Citizens could not be found who would be ready, ["to" stricken out] without the inducement of eligibility to offices, to undertake the Legislative service. Genius & virtue it may be said, ought to be encouraged. Genius, for aught he knew, might, but that virtue should be encouraged by such a species of venality, was an idea, that at least had the merit of being new.

M<sup>r</sup> King remarked that we were refining too much in this



["of" stricken out] business; and that the idea of preventing intrigue and solicitation of offices was chimerical. You say that no member shall himself be eligible to any office. Will this restrain him from ["amassing" stricken out]<sup>availing</sup> himself of the same means which would gain appointments for himself, to gain them for his son, his brother, or any other object of his partiality. We were losing therefore the advantages on one side, without avoiding the evils on the other.

Mr Wilson supported the motion. The proper cure he said for corruption in the Legislature was to take from it the power of appointing to offices. One branch of corruption would indeed remain, that of creating unnecessary offices, or granting unnecessary salaries, and for that the amendment would be a proper remedy. He animadverted on the impropriety of stigmatizing with the name of venality the laudable ambition of rising into the honorable offices of the Government; an ambition most likely to be felt in the early & most incorrupt period of life, & which all wise & free Gov<sup>ts</sup> had deemed it sound policy, to cherish, not to check. The members of the Legislature have perhaps the hardest & least profitable task of any who engage in the service of the state. Ought this merit to be made a disqualification?

Mr Sherman, observed that the motion did not go far enough. It might be evaded by the creation of a new office, the translation to it of a person from another office, and the appointment of a member of the Legislature to the latter. A new Embassy might be established to a <sup>new court</sup> ["new Court" stricken out] & an ambassador taken from another, in order to create a vacancy for a favorite member. He admitted that inconveniencies lay on both sides. He hoped there w<sup>d</sup> be

sufficient inducements to the public service [illegible word stricken out] without resorting <sup>to</sup> the prospect of desirable offices, and on the whole was rather ag<sup>st</sup> the motion of M<sup>r</sup> Madison.

M<sup>r</sup> Gerry thought there was great weight in the objection of M<sup>r</sup> Sherman. He added as another objection <sup>ag<sup>st</sup></sup> admitting the eligibility of members in any case that it would produce intrigues of ambitious men for displacing proper officers, in order to create vacancies for themselves. In answer to M<sup>r</sup> King he observed that ["altho" stricken out] although members, if disqualified themselves might still intrigue & cabal for their sons, brothers &c, yet as their own interest would be dearer to them, than those of their nearest connections, it might be expected they would go ["<sup>greater</sup> great" stricken out] lengths to promote it.

M<sup>r</sup> Madison had been led to this motion as a middle ground between an eligibility in all cases, and an absolute disqualification. He admitted the probable abuses of an eligibility of the members, to offices, particularly within the gift of the Legislature. He had witnessed the partiality of such bodies to their own members, as had been remarked of the Virginia assembly by <sup>his colleague</sup> [Col. Mason]. He appealed however to ["Col <sup>him</sup> Mason" stricken out] in turn to vouch another fact not less notorious in Virginia, that the backwardness of the ["most" stricken out] best citizens to engage in the legislative service gave but too great success to unfit characters. The question was not to be viewed on one side only. The advantages & disadvantages on both ought to be fairly compared. [Illegible word stricken out] The objects to be aimed at were to fill all offices with the fittest——characters, & to draw the wisest & most worthy citizens into the Legislative service. If on one

hand, public bodies were partial to their own members; on the other they were as apt to be misled by taking characters on report, or the authority of patrons and dependents. All who had been concerned in the appointment of strangers on these recommendations must be sensible of this truth. Nor w<sup>d</sup> the partialities of such Bodies be obviated by disqualifying their own members. Candidates for office would hover round the seat of Gov<sup>t</sup> or be found among the residents there, and practice all the ["means" stricken out] means of courting the favor of all the members. A great proportion of the appointments made by the States were evidently brought about in this way. In the general Gov<sup>t</sup> the evil must be still greater, the characters of distant states, being much less <sup>throughout the U. States</sup> known than those of the distant parts of the same ["state" stricken out] State. The elections by Congress had generally turned on men living at the seat of Gov<sup>t</sup> <sup>the fed<sup>t</sup></sup> or in its neighbourhood.—As to the next object, the impulse to the Legislative service, was evinced by experience to be in general too feeble with those best qualified for it. This inconveniency w<sup>d</sup> also be more felt in the Nat<sup>l</sup> Gov<sup>t</sup> than in the State Gov<sup>ts</sup> as the sacrifices req<sup>d</sup> from the distant members w<sup>d</sup> be much greater, and the pecuniary provisions, probably, more disproportionate. It w<sup>d</sup> therefore be impolitic to add fresh objections to the <sup>Legislative</sup> service by an absolute disqualification of its members. The point in question ["would" stricken out] was whether this would be an objection with the most capable citizens. Arguing from experience he concluded that it would. The Legislature of Virg<sup>a</sup> would probably have been without many of its best members, if in that situation, they had been ineligible to Cong<sup>s</sup> to the Gov<sup>t</sup> & other honorable officers of the State.

<sup>for</sup>  
Mr Butler thought Characters fit office w<sup>d</sup>, never be unknown.

Col. Mason. If the members of the Legislature are disqualified, still the honors of the State will induce those who aspire to them, to enter that service, as the field in which they ["can" stricken out] can best display & improve their talents, & lay the train for their subsequent advancement.

Mr Jenifer remarked that in Maryland, the Senators chosen for five years, <sup>ed.</sup> hold no other office & that this circumstance gained them the greatest confidence of the people.

On the question for agreeing to the motion of M<sup>r</sup> Madison. Mass<sup>ts</sup> div<sup>d</sup> C<sup>t</sup> ay. N. Y. no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Sherman mov<sup>d</sup> to insert the words "and incapable of holding" after the words "eligible to offices" w<sup>ch</sup> was agreed to without opposition.

The word "established" & the words "Nat<sup>l</sup> Gov<sup>t</sup>" were struck out of Resolution 3<sup>d</sup>;

M<sup>r</sup> Spaight called for a division of the question, in consequence of which it was so put, as that it turned in the first member of it, "on the ineligibility of the members during the term for which they were elected"—whereon the States were, Mass<sup>ts</sup> div<sup>d</sup> C<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no.

On the 2<sup>d</sup> member of the sentence extending ineligibility of members to one year after the term for which they were ["appointed" stricken out] elected { Col Mason thought this essential to guard ag<sup>t</sup>—evasions by resignations, and stipulations for office to be fulfilled at the expiration of the legislative term. Mr. Gerry had known such a case. Mr. Hamilton. Evasions <sup>ed.</sup> not be prevented ÷ as by proxies—by friends holding for a year, & then opening the way &c. Mr. Rutledge admitted the possibility of evasions but was for contracting { Mas. no. C<sup>t</sup> no. N. Y. ay. N. J. no. P<sup>a</sup> div<sup>d</sup> them as possible. } M<sup>d</sup> ay. V<sup>a</sup> [“no” written upon “ay”] N. C. no. S. C. ay. Geo no

Adj<sup>d</sup>

Monday, June 25. in Convention.

Resolution 4. [<sup>being taken up.</sup> "considered" stricken out] <sup>spoke as follows—</sup>

Mr Pinkney.—The efficacy of the System will depend on this article. In order to form a right judgment in the case it will be proper to examine the situation of this Country more accurately than it has yet been done. ["It differed materially from that of Europe. We have no hereditary distinction of ranks, property is more equally divided. Few deserve the appellation of rich. The right of suffrage is more diffusive here, than in any other Country. This equality of property & rank is likely to be continued for" stricken out] The people of the U. States are perhaps the most singular of any we are acquainted with. Among them there are fewer distinctions of fortune & less of rank, than among the inhabitants of any other nation. Every freeman has a right to the same protection & security; and a very moderate share of property entitles them to the possession of all the honors and privileges the public can bestow: hence arises a greater equality, than is to be found among the people of any other country, and an equality which is more likely to continue—I say this equality is likely to continue, because in a new Country, possessing immense tracts of uncultivated lands, where every temptation is offered to emigration & where industry must be rewarded with competency, there will be few poor, and few dependent—Every member of the Society almost, will enjoy an equal power of arriving at the supreme offices & consequently of directing the strength & sentiments of the whole Community. None will be excluded by birth, & few by fortune, from voting for proper persons to fill the offices of Government—the whole community will enjoy in the fullest sense that kind of political liberty which consists in the

power the members of the State reserve to themselves, of arriving at the public offices, or at least, of having votes in the nomination of those who fill them.

If this State of things is true & the prospect of its continuing probable, it is ["not" stricken out] perhaps not politic to endeavour too close an imitation of a Government calculated for a people whose situation is, & whose views ought to be extremely different

Much has been said of the Constitution of G. Britain. I will confess that I believe it to be the best constitution in existence; but at the same time I am confident it is one that will not or can not be introduced into this Country, for many centuries.—If it were proper to go here into a historical dissertation on the British Constitution, it might easily be shewn that the peculiar excellence, the distinguishing feature of that Governm<sup>t</sup> can not possibly be introduced into our System—that its balance between the Crown & the people can not be made a part of our Constitution.—that we neither have or can have the members to compose it, nor the rights, privileges & properties of so distinct a class of Citizens to guard.—that the materials for forming this balance or check do not exist, nor is there a necessity for having so permanent a part of our Legislative, until the Executive power is so constituted as to have something fixed & dangerous in its principle—By this I mean a sole, hereditary, though limited Executive.

That we cannot have a proper body for forming a Legislative balance between the inordinate power of the Executive and the people, is evident from a review of the accidents & circumstances which gave rise to the peerage of Great Britain—I believe it is well ascertained that the parts which compose



the British Constitution arose immediately from the forests of Germany; but the antiquity of the establishment of nobility is by no means clearly defined. Some authors are of opinion that the dignity denoted by the titles of *dux et comes*, was derived from the old Roman to the German Empire; while others are of opinion that they existed among the Germans long before the Romans were acquainted with them. The institution however of nobility is immemorial among the nations who may probably be termed the ancestors of Britain.—At the time they were summoned in England to become a part of the National Council, and the circumstances which have contributed to make them a constituent part of that constitution, must be well known to all gentlemen who have had [“either” stricken out] industry & curiosity enough to investigate the subject—The nobles with their possessions & dependents composed a body permanent in their nature and formidable in point of power. They had a distinct interest both from the King and the people; an interest which could only be represented by themselves, and the guardianship could not be safely intrusted to others.—At the time they were originally called to form a part of the National Council, necessity perhaps as much as other cause, induced the Monarch to look up to them. It was necessary to demand the aid of his subjects in personal & pecuniary services. The power and possessions of the Nobility would not permit taxation from any assembly of which they were not a part: & the blending the deputies of the Commons with them, & thus forming what they called their *parler-ment* was perhaps as much the effect of chance as of any thing else. The Commons were at that time completely subordinate to the nobles, whose consequence & influence seem to have been the only

reasons for their superiority; a superiority so degrading to the Commons that in the first Summons we find the peers are called upon to consult, the commons to consent. From this time the peers have composed a part of the British Legislature, and notwithstanding their power and influence have diminished & those of the Commons have increased, yet still they have always formed an excellent balance ag<sup>st</sup> either the encroachments of the crown or the people.

I have said that such a body cannot exist in this Country for ages, and that untill the situation of our people is exceedingly changed no necessity will exist for so permanent a part of the Legislature. To illustrate this I have remarked that the people of the United States are more equal in their circumstances than the people of any other Country—that they have very few rich men among them,—by rich men I mean those whose riches may have a dangerous influence, or such as are esteemed rich in Europe—perhaps there are not one hundred such on the Continent: that it is not probable this number will be greatly increased: that the genius of the people, their mediocrity of situation & the prospects which are afforded their industry in a country which must be a new one for centuries are unfavorable to the rapid distinction of ranks. The destruction of the right of primogeniture & the equal division of the property of Intestates will also have an effect to preserve this mediocrity: for laws invariably affect the manners of a people. On the other hand that vast extent of unpeopled territory which opens to the frugal & industrious a sure road to competency & independence will effectually prevent for a considerable time the increase of the poor or discontented, and be the means of preserving that equality of condition which so eminently distinguishes us.

If equality ["then" stricken out] is as I contend the leading feature of the U. States, where then ["is" stricken out] are the riches & wealth whose representation & protection is the peculiar province of this permanent body. Are they in the hands of the few who may be called rich; in the possession of less than a hundred citizens? certainly not. They are in the great body of the people, among whom there are no men of wealth, and very few of real poverty.—Is it probable that a change will be created, and that a new order of men will arise? If under the British Government, for a century [illegible word stricken out] no such change was probable, I think it may be fairly concluded it will not take place while even the semblance of Republicanism remains. How is this change to be effected? Where are the sources from whence it is to flow? From the landed interest? No. That is too unproductive & too much divided in most of the States. From the Monied interest? If such exists at present, little is to be apprehended from that source. Is it to spring from commerce? I believe it would be the first instance in which a nobility sprang from merchants. Besides, Sir, I apprehend that on this point the policy of the U. States has been much mistaken. We have unwisely considered ourselves as the inhabitants of an old instead of a new country. We have adopted the maxims of a State full of people & manufactures & established in credit. We have deserted our true interest, and instead of applying closely to those improvements in domestic policy which would have ensured the future importance of our commerce, we have rashly & prematurely engaged in schemes as extensive as they are imprudent. This however is an error which daily corrects itself & I have no doubt that a few more

severe trials will convince us, that very different commercial principles ought to govern the conduct of these States.

The people of this country are not only very different from ["any we" stricken out] the inhabitants of any State we are acquainted with in the modern world; but I assert that their situation is distinct from either the people of Greece or Rome, or of any State we are acquainted with among the antients.—Can the orders introduced by the institution of Solon, can they be found in the United States? Can the military habits & manners of Sparta be resembled to our habits & manners? Are the distinctions of Patrician ["s" stricken out] & Plebeian ["s" stricken out] known among us? Can the Helvetic or Belgic confederacies, or can the unwieldy, unmeaning body called the Germanic Empire, can they be said to possess ["the" stricken out] either the same or a situation like ours? I apprehend not.—They are perfectly different, in their distinctions of rank, their Constitutions, their manners & their policy.

Our true situation appears to me to be this.—a new extensive Country containing within itself the materials for forming a Government capable of extending to its citizens all the blessings of civil & religious liberty—capable of making them happy at home. This is the great end of Republican Establishments. We mistake the object of our government, if we hope or wish that it is to make us respectable abroad. Conquest or superiority among other powers is not or ought not ever to be the object of republican systems. If they are sufficiently active & energetic to rescue us from contempt & preserve our domestic happiness & security, it is all we can expect from them,—it is more than almost any other Government ensures to its citizens.

I believe this observation will be found generally true: that no two people are so exactly alike in their situation or circumstances as to admit the exercise of the same Government with equal benefit: that a system must be suited to the habits & genius of the People it is to govern, and must grow out of ["them" stricken out] them.

The people of the U. S. may be divided into three classes—Professional men who must from their particular pursuits always have a considerable weight in the Government while it remains popular—Commercial men, who may or may not have weight as a wise or injudicious commercial policy is pursued.—If that commercial policy is pursued which I conceive to be the true one, the merchants of this Country will not or ought not for a considerable time to have much weight in the political scale.—The third is the landed interest, the owners and cultivators of the soil, who are and ought ever to be the governing spring in the system.—These three classes, however distinct in their pursuits are individually equal in the political scale, and may be easily proved to have but one interest. The dependence of each on the other is mutual. The merchant depends on the planter. Both must in private as well as public affairs be connected with the professional men; who in their turn must in some measure depend upon them. [“He” stricken out]<sup>Hence</sup> it is clear from this manifest connection, & the equality which I before stated exists, & must for the reasons then assigned, continue, that after all there is one, but one great & equal body of citizens composing the inhabitants of this Country among whom there are no distinctions of rank, and very or none of fortune.

For a people thus circumstanced are we then to form a Government & the question is what kind of Government is best suited to them.

Will it be the British Gov<sup>t</sup>? No. Why? Because G. Britain contains three orders of people distinct in their situation, their possessions & their principles.—These orders combined form the great body of the Nation, And as in national expenses the wealth of the whole community must contribute, so ought each component part to be properly & duly represented.—No other combination of power could form this due representation, but the one that exists.—Neither the peers or the people could represent the royalty, nor could the Royalty & the people form a proper representation for the Peers.—Each therefore must of necessity be represented by itself, or the sign of itself; and this accidental mixture has certainly formed a Government admirably well balanced.

But the U. States contain but one order that can be assimilated to the British Nation.—this is the order of Commons. They will not surely then attempt to form a Government consisting of three branches, two of which shall have nothing to represent. They will not have an Executive & Senate [[“hereditary” stricken out]] because the King & Lords of England are so. The same reasons do not exist and therefore the same provisions are not necessary.

We must as has been observed suit our Govern<sup>t</sup> to the people it is to direct. These are I believe as active, intelligent & susceptible of good Govern<sup>t</sup> as any people in the world. The Confusion which has produced the present relaxed State is not owing to them. It is owing to the weakness & [defects] of a Gov<sup>t</sup> incapable of combining the various interests it is intended to unite, and destitute of energy.—All that we have to do then is to distribute the powers of Gov<sup>t</sup> in such a manner, and for such limited periods, as while it gives



a proper degree of permanency to the Magistrate, will reserve to the people, the right of election they will not or ought not frequently to part with.—I am of opinion that this may be easily done; and that with some amendments the propositions before the Committee will fully answer this end.

No position appears to me more true than this; that the General Gov<sup>t</sup> can not effectually exist without renewing to the States the possession of their local rights.—They are the instruments upon which the Union must frequently depend for the support & execution of their powers, however immediately operating upon the people, and not upon the States.

Much has been said about the propriety of abolishing the distinction of State Governments, & having but one general System. Suffer me for a moment to examine this question.

[The residue of this speech was not [<sup>furni-shed</sup> "obtained" stricken out]] like the above by Mr. Pinckney.

This report of Mr. Pinckney's speech, in his own handwriting, is preserved among the Madison Papers, with the "Debates."

The mode of [<sup>constituting</sup> "chosing" stricken out] the 2<sup>d</sup>. branch [<sup>being under</sup> "taken into" stricken out] considera-  
tion

The word "national" was struck out and "United States" inserted.

Mr Ghorum, inclined to a compromise as to the rule of proportion. He thought there was some weight in the objections of the small States. If V<sup>a</sup> should have 16 votes & Del<sup>re</sup> with several other States together 16. those from Virg<sup>a</sup> would be more likely to unite than the others, and would therefore have an undue influence. This remark was applicable not only to States, but to Counties or other districts of the same State. Accordingly the Constitution of Mass<sup>ts</sup> has provided that the <sup>representatives of the</sup> larger districts should not be ["increased" stricken out] in an exact ratio to their numbers. And experience he thought had shewn the provision to be expedient.

M<sup>r</sup> Read. The States have heretofore been in a sort of partnership. They ought to adjust their old affairs before they open["ed" stricken out] <sup>account.</sup> a new. ["He alluded to" stricken out] <sup>He brought into view</sup> the appropriation of the common interest in the Western lands, to the use of particular States. Let justice be done on this head; let the fund be applied fairly & equally to the discharge of the general debt, and the smaller States who had been injured would listen then perhaps to those ideas of just representation which had been held out.

M<sup>r</sup> Ghorum. did not see how the Convention could interpose in the case. Errors he <sup>had</sup> allowed been committed on the Subject. But Cong<sup>s</sup> were now using their endeavors to rectify them. The best remedy would be such a Government as would have vigor enough to do justice throughout. This was certainly the <sup>best</sup> chance that could be afforded to the smaller States.

M<sup>r</sup> Wilson. the question is shall the members of the 2<sup>d</sup> branch be chosen by the Legislatures of the States? When he considered the amazing extent of country—the immense population which is to fill it, the influence which the Gov<sup>t</sup> we are to form will have, not only on the ["people" stricken out] present generation of our people & their multiplied posterity, but on the whole Globe, he ["felt," stricken out] was lost in the magnitude of the object. The project of Henry <sup>his Statesmen</sup> the 4<sup>th</sup> & [part of word stricken out, last two letters illegible] was but the picture in miniature of the great portrait to be exhibited. ["up" stricken out] He was opposed to an election by the State Legislatures. In explaining his reasons it was necessary to observe ["that" stricken out] the twofold relation in which the people would stand. 1. as Citizens of the Gen'l Gov't. 2. as Citizens of their particular State. The

Gen<sup>l</sup> Gov<sup>t</sup> was meant for them in the first capacity; <sup>the</sup> State Gov<sup>ts</sup> in the second. Both Gov<sup>ts</sup> were derived from the people—both meant for the people—both therefore ought to be regulated on the same principles. The same train of ideas which [“accompanied a” stricken out] belonged to the relation of the Citizens to their State Gov<sup>ts</sup> were applicable to their relation to the Gen<sup>l</sup> Gov<sup>t</sup> and in forming the latter, we ought to proceed, by abstracting as much as possible from the idea of State Gov<sup>ts</sup>. [“We ought to proceed as if no such gov<sup>ts</sup> existed” stricken out]. With respect to the province & objects of the Gen<sup>l</sup> Gov<sup>t</sup> they should be considered as having no existence. [“If” stricken out] The election of the 2<sup>d</sup> branch by the Legislatures, will introduce & cherish local interests & local prejudices. The Gen<sup>l</sup> Gov<sup>t</sup> is not an assemblage of States, but of individuals for certain political purposes—it is not meant for the States, but for the individuals composing them: the individuals therefore not the States, ought to be represented in it: A proportion of this representation can be preserved in the 2<sup>d</sup> as well as in the 1<sup>st</sup> branch; and the election can be made by electors chosen by the people for that purpose. He moved an amendment to that effect, which was not seconded.

M<sup>r</sup> Elsworth saw no reason for departing from the mode contained in the Reports. Whoever chooses the member, he will be a citizen of the <sup>State he is to represent &</sup> [“citizen and” stricken out] will feel the same spirit and act the same part whether he be appointed by the people or the Legislature. Every State has its particular views & prejudices, which will find their way into the general councils, through whatever channel they may flow. Wisdom was one of the characteristics which it was in con-

temptation to give the second branch. Would not more of it issue from the Legislatures; than from an immediate election by the people. He urged the necessity of maintaining the existence & agency of the States. Without their co-operation it would be impossible to support a Republican Gov<sup>t</sup>. <sup>over so great an extent of Country.</sup> An army could scarcely render it practicable. The ["Lar" stricken out] largest States are the Worst <sup>Governed</sup> ["gov<sup>d</sup>" stricken out] Virg<sup>a</sup> is obliged to acknowledge her incapacity to extend ["its" stricken out] <sup>her</sup> Gov<sup>t</sup> to Kentucky. Mas<sup>ts</sup> can not keep the peace one hundred miles from her capitol. <sup>and is now forming</sup> <sup>a</sup> <sup>an</sup> standing "stricken out] army for its support. How long Pen<sup>a</sup> may be free from a like situation can not be foreseen. If the principles & materials of our Gov<sup>t</sup> ["ts cannot" stricken out] are not adequate to the extent of ["Virg" stricken out] <sup>a</sup> these single States; how can it be imagined that they can support a single Gov<sup>t</sup> throughout the U. States. The only chance of supporting a Gen<sup>l</sup> Gov<sup>t</sup> lies in engrafting it on that of the individual States.

Doc<sup>r</sup>. Johnson urged the necessity of preserving the State Gov<sup>ts</sup>—which <sup>would</sup> ["might" stricken out] be at the mercy of the Gen<sup>l</sup>. Gov<sup>t</sup>. on Mr. Wilson's <sup>plan</sup> ["plan" stricken out].

Mr. Madison thought it wd. obviate difficulty <sup>by</sup> ["by" stricken out] if the present resol. were postponed, & the 8<sup>th</sup>. taken up. which is to fix the right of suffrage in the 2<sup>d</sup>. branch.

Doc<sup>r</sup> Williamson professed himself a friend to such a system as would secure the existence of the State Gov<sup>ts</sup>. The happiness of the people depended on it. He was at a loss to give his vote, <sup>as to the Senate</sup> untill he knew the number of its members. In order to ascertain this, he moved to insert these words after "2<sup>d</sup> branch of Nat<sup>l</sup> Legislature"—"who shall bear such proportion to the n<sup>o</sup> of the 1<sup>st</sup> branch as 1 to " He was not seconded.

Mr Mason. It has been agreed on all hands that an efficient Gov<sup>t</sup> is necessary that to render it such it ought to have

the faculty of self-defence, that to render its different branches effectual each of them ought to have the same power of self defence. He did not wonder that such an agreement should have prevailed in these points. He only wondered that there should be any disagreement about the necessity of allowing the State Gov<sup>ts</sup> the same self-defence. If they are to be preserved as he conceived to be essential, they certainly ought to have this power, and the only mode left of giving it to them, was by allowing them to appoint the 2<sup>d</sup> branch of the Nat<sup>l</sup> Legislature.

Mr Butler observing that we were put to difficulties at every step by the uncertainty ["whether of the" stricken out] whether <sup>an</sup> equality or a ratio of representation w<sup>d</sup> prevail finally in the 2<sup>d</sup> branch, moved to postpone the 4<sup>th</sup> Resol: & to proceed to the Resol: on that point. Mr. Madison seconded him.

On the question

Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. ay. N. J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N C. no. S. C. ay. Geo. ay.

On a question to postpone the 4 and take up the 7. Resol. Ays—Mar<sup>t</sup> V<sup>a</sup> N. C. S. C. Geo.—Noes. Mas. Ct. N. Y. N. J. Pa. Del.

On the question to agree "that the members of 2<sup>d</sup> branch be chosen by <sup>the</sup> indiv<sup>l</sup> Legislatures"

Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. Pa<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.\*

On a question [ "to require" stricken out] on the clause requiring the age of 30 years at least"—it was agreed to unanimously

On a question to strike out—the words "sufficient to ensure their independency" after the word "term" it was agreed to

That the 2<sup>d</sup> branch hold their offices for term of seven years", considered

[ "After the words "seven years" were added "erased]

M<sup>t</sup> Ghormin suggests ["a rotation with" stricken out] a term of "4 years", <sup>to</sup> to be elected every year.

Mr. Randolph. supported the idea of rotation, as favorable to the wisdom & stability of the Corps. which might possibly be always sitting, and aiding the executive.  
And moves ["after the" stricken out] after "7 years" to add,

\* It must be kept in view that the largest States particularly Pennsylvania & Virginia always considered the choice of the 2<sup>d</sup>. Branch by the State Legislatures as ["inconsistent with" stricken out] a proportional Representation to which they were attached as a fundamental principle of just Government. The smaller States who had opposite views, were reenforced by the members from the large States most anxious to secure the importance of the State Governments.

"to go out in fixt proportion" which was agreed to.

["Mr. Read thought the members of the 2<sup>d</sup>. branch ought to continue in office during good behaviour" stricken out].

Mr Williamson. suggests "6 years," as more convenient for Rotation [first part of the word blotted] an 7 years.

Mr Sherman seconds him.

Mr Reed proposed that they s<sup>d</sup> hold their offices "during good" behaviour. Mr R. Morris seconds him.

Gen<sup>l</sup> Pinkney proposed "4 years". A larger term w<sup>d</sup> fix them at the seat of Gov<sup>t</sup>. They w<sup>d</sup> acquire an interest there, perhaps transfer their property & lose sight of the States they represent. Under these circumstances the distant States w<sup>d</sup> labour under great disadvantages, ["turning to," illegible words, "in order," illegible words, "equally," illegible word, "distant," illegible word, "State. The danger," illegible word, "of the," illegible words, "they," illegible words, "forming," illegible words, "or which" illegible words stricken out]

Mr Sherman moved to strike out "7 ["States" stricken out] years" in order to take ["s" stricken out] questions on the several propositions. On the question to strike out "seven"

Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>ra</sup> no. N. C. ay. S. C. ay. Geo. ay.



On the question [<sup>to insert</sup> "for" stricken out] "6 years, which failed  
 5 Sts. being ay. 5 no. & 1: divided.

Mas<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup>  
 div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. no.

On a motion to adjourn, the votes were 5 for 5 ag<sup>st</sup>, it & 1 divided. — Con. N. J. P<sup>a</sup>, — Del. V<sup>a</sup>, —  
 ay — Mas<sup>ts</sup>, N. Y. N. C. S. C. Geo: no. Mary<sup>d</sup>, divided.

On the question for "5 years" it was lost

Mas<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup>  
 div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. No. Geo. No.

Adj<sup>d</sup>

Tuesday, June 26. in Convention

The duration of the 2<sup>d</sup> branch under consideration.

Mr Ghorum moved to fill the blank with "six years". one  
 third of the members to go out every second year

Mr Wilson 2<sup>ded</sup> the motion.

Gen<sup>l</sup> Pinkney opposed six years in favor of four years. The States he said had different interests. Those of the Southern, and of S. Carolina in particular were different from the Northern. If the Senators should be ["chosen" stricken out] appointed for a long term, they w<sup>d</sup> settle in the State where they exercised their functions; and would in a little time be rather the representatives of that than of the State appoint<sup>g</sup> them.

Mr Read mov<sup>d</sup> that the term be nine years. This w<sup>d</sup> admit of a very convenient rotation, one third going out triennially. He w<sup>d</sup> still prefer "during good behaviour." but being little supported in that idea, he was willing to take the longest term that could be obtained.

Mr Broome 2<sup>ded</sup> the motion

Mr Madison. In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were first to protect the people ag<sup>st</sup> their rulers: secondly to protect ["them" stricken out] <sup>the people</sup> ag<sup>st</sup> the transient impressions into which they themselves might be led. A people deliberating in a temperate moment, and with the experience [<sup>of other</sup> "off others" stricken out] nations before them, on the plan of Gov<sup>t</sup> most likely to secure their happiness, would first be aware, that those charg<sup>d</sup> with the public happiness, might betray their trust. An obvious precaution ag<sup>st</sup> this danger w<sup>d</sup> be to divide the trust between different bodies of men, who might ["be" stricken out] watch & check each other. In this they w<sup>d</sup> be governed by the same prudence which has prevailed in organizing the subordinate departments of Gov<sup>t</sup> where all business liable to abuses is made to pass thro' separate hands, the one being a check on the other. It w<sup>d</sup> next occur to such a people, that they themselves were liable to ["err thro'" stricken out] temporary errors, thro' want of information as to their ["true" stricken out] true interest, and that men chosen for a short term, & employed but a small portion of that in public affairs, might err from the same cause. This reflection w<sup>d</sup> naturally suggest that the Gov<sup>t</sup> be so constituted, as that one of its branches might have an opp<sup>y</sup>. of acquiring a competent knowledge of the public interests. Another reflection equally becoming [<sup>a people</sup> "such a people" stricken out] <sup>on such</sup> an occasion, w<sup>d</sup> be that they themselves, as well as a numbrous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence ag<sup>st</sup> this danger would be ["to" stricken out] <sup>to</sup> select <sup>a</sup> portion of enlightened citizens, whose limited number, and firmness might seasonably interpose ag<sup>st</sup> impetuous counsels.

It ought finally to occur to a people deliberating on a Gov<sup>t</sup> for themselves, that as different interests necessarily result from the liberty meant to be secured, the major interest might under sudden impulses be tempted to commit injustice on the minority. In all civilized Countries <sup>the people</sup> fall into different classes hav<sup>g</sup> a real or supposed difference of interests. There will <sup>be</sup> creditors & debtors, farmers, merch<sup>ts</sup> & manufacturers. There will be particularly the distinction of rich & poor. It was true as had been observ<sup>d</sup> [by M<sup>r</sup> Pinkney] we had not among us those hereditary distinctions, of rank which were a great source ["of the" stricken out] of the contests in the ancient Gov<sup>ts</sup> as well as the modern States of Europe, nor those extremes of wealth or poverty which characterize the latter. We cannot however be regarded even at this time, as one homogeneous mass, in which every thing that affects a part will affect in the same manner the whole. In framing a system which we wish to last for ages, we sh<sup>d</sup> ["not by" stricken out] not lose sight of the changes which ages will produce. An increase of population will of necessity increase the proportion of those who will labour under all the hardships of life, & secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in ["this Cong" stricken out] this Country. but symptoms of a leveling spirit, as we have understood, have sufficiently appeared in a certain quarters to give notice of the future danger. How is this danger to be guarded ag<sup>st</sup> on republican principles? ["Among other means" stricken out] How is the danger in all cases of interested

co-alitions to oppress the minority to be guarded ag<sup>st</sup>? Among other means by the establishment of ["such" stricken out] a body in the Gov<sup>t</sup> sufficiently respectable for its wisdom & virtue, to aid on such emergencies, the preponderance of justice by throwing its weight into that scale. Such being the objects of the second branch in the proposed Gov<sup>t</sup> he thought a considerable duration ought to be given to it. He did not conceive that the term of nine years could threaten any real danger; but in pursuing his particular ideas on the subject, he should ["prefer" stricken out] require that the long term ["allowed" stricken out] <sup>allowed to the 2<sup>d</sup>. branch</sup> should not commence till such a period of life ["that" stricken out] as would render a perpetual disqualification to be re-elected little inconvenient either in a public or private view. He observed that as it was more than probable we were now digesting a plan which in its operation w<sup>d</sup> decide forever the fate of Republican Gov<sup>t</sup> we ought not only to provide every guard to liberty that its preservation c<sup>d</sup> require, but be equally careful to supply the defects which our own ["particular" stricken out] experience had particularly pointed out.

M<sup>r</sup> Sherman. Gov<sup>t</sup> is instituted for those who live under it. It ought therefore to be so constituted as not to be dangerous to their liberties. The more permanency it has the worse if it be a bad Gov<sup>t</sup>. Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the Government, by preserving that good behavior, because it assures their re-election. In Connecticut elections have been very frequent, yet great stability & uniformity both as to persons & measures have been experienced from its original establishm<sup>t</sup> <sup>the</sup> to present time; a period of

more than 130 years. He wished <sup>to</sup> have provision [illegible word stricken out] made for steadiness & wisdom in the system adopted; but he thought six or ["six" stricken out] <sup>four</sup> years would be sufficient. He sh<sup>d</sup> be content with either.

M<sup>r</sup> Read wished it to be considered by the small States that it was their interest that we should become one people as much as possible, that State attachments sh<sup>d</sup> be extinguished as much as possible, that the ["Senate" stricken out] Senate sh<sup>d</sup> be so constituted as to have [two illegible words stricken out] the feelings of citizens of the whole.

M<sup>r</sup> Hamilton. He did not mean to enter particularly into the subject. He concurred with M<sup>r</sup> Madison in thinking we were now to [illegible words stricken out] <sup>de:ide for</sup> ever the fate of Republican Government; and that if we did not give to that form due stability and wisdom, it would be disgraced & lost among ourselves, disgraced & lost to mankind for ever. He acknowledged himself not to think favorably of Republican Government; but addressed him- ["himself" stricken out] his remarks to those who did think favorably of it, in order to prevail on them to tone their Government as high as possible. He professed himself to be as zealous an advocate for liberty as any man whatever, and trusted he should be as willing a martyr to <sup>it</sup> though he differed as to the form in which it was most eligible.—He concurred also in the general observations of [M<sup>r</sup> Madison] on the subject, which might be supported by others if it were necessary. <sup>It was certainly true</sup> ["He was right in saying" stricken out] that nothing like an equality of property existed: that an inequality would exist as long as liberty existed, and that it would unavoidably result from that very liberty itself. This inequality of property ["was the princi-

pal circumstance" stricken out] constituted the great & fundamental distinction in Society. When the Tribunitial powers had levelled the boundary between the patricians & plebeians what followed? The distinction between rich & poor was substituted. He meant not however to enlarge on the subject. He rose principally to remark that [Mr Sherman] ["had" stricken out] seemed not to recollect that one branch of the proposed Gov<sup>t</sup> was so formed, as to render it particularly the guardians of the poorer orders of citizens; nor to have adverted to the true causes of the stability which had been exemplified in Cou<sup>t</sup>. Under the British system as well as the federal, many of the great powers appertaining to Gov<sup>t</sup> ["such as" stricken out] particularly all those relating to foreign Nations were not in the hands of the Gov<sup>t</sup> there. Their internal affairs also were extremely simple, owing to sundry causes many of which were peculiar to that Country. ["off" stricken out] Of late the Govern<sup>t</sup> had entirely given way to the people, and had in fact suspended many of its ordinary functions in order to prevent those turbulent scenes which had appeared elsewhere. He asks Mr S. whether the State at this time, dare impose & collect a tax on y<sup>e</sup> people? To those causes & not to the frequency of elections, the effect, as far as it existed ought to be, ascribed.

Mr Gerry. wished we could be united in our ideas concerning a permanent Gov<sup>t</sup>. All aim at the same end, but there are great differences as to the means. One circumstance He thought should be carefully attended to. There were not  $\frac{1}{1000}$  part of our fellow citizens who were not ag<sup>t</sup> every approach towards Monarchy. Will they ever agree to a plan which seems to make such an approach. The Convention ought to be extremely cautious in what they hold out to the people. Whatever plan may be proposed will be espoused



with warmth by many out of respect to the quarter it proceeds from as well as from an approbation of the plan itself. And if the plan should be of such a nature as to rouse a violent opposition, it is easy to foresee that discord & confusion will ensue, and it is even possible that we may become a prey to foreign powers. He did not deny the position of Mr<sup>Madison.</sup> — that the majority will generally violate justice when they have an interest in so doing; But did not think there was any such temptation in this Country. Our situation was different from that of G. Britain: and the great body of lands yet to be parcelled out & settled would very much prolong the difference. Notwithstanding the symptoms of injustice which had marked many of our public Councils, they had not proceeded so far as not to leave hopes, that there would be a sufficient sense of justice & virtue for the purpose of Gov<sup>t</sup>. He admitted the evils arising from a frequency of elections: and would agree to give the Senate a duration of four or five years. [“To go further would bar the way.” stricken out] A longer term would defeat itself. It never would be adopted by the people.

Mr Wilson did not mean to repeat what had fallen from others, but w<sup>d</sup> add an observation or two which he believed had not yet been suggested. Every nation may be regarded in two relations 1 to its own citizens. 2 to foreign nations. It is therefore not only liable to anarchy & tyranny within, but has wars to avoid & treaties to obtain from abroad. The Senate will probably be the depositary of the powers concerning the latter objects. It ought therefore to be made respectable in the eyes of foreign nations: The true reason why G. Britain has not yet listened to a commercial treaty with us has been, because she had no confidence in the stability or

efficacy of our Government. 9 years with a rotation, will provide these desirable qualities; and give our Gov<sup>t</sup> an advantage in this respect over Monarchy itself. In a monarchy much must alway depend on the temper of the man. In such a body, the personal character will be lost in the political. He add another observation. The popular objection ag<sup>st</sup> appointing any public body for a long term was that it might by gradual encroachments prolong itself first into a body for life, and finally become a hereditary one. It [“was” stricken out]<sup>w<sup>d</sup></sup> be a satisfactory answer to this objection that as  $\frac{1}{3}$  would go out triennially, there would be always [“ $\frac{2}{3}$ ” stricken out]<sup>would</sup> holding their places for unequal terms, and consequently acting under the influence of different views, and impulses—<sup>different in</sup>—On the question for 9 years.  $\frac{1}{3}$  to go out triennially

Mass<sup>ts</sup> no. Cou<sup>t</sup> no. N. Y. no. N. J. no. Pa<sup>a</sup> ay. Del. ay. Md<sup>d</sup> no. Va<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

On the question for 6 years  $\frac{1}{3}$  to go out biennially  
Mass<sup>ts</sup> ay. Cou<sup>t</sup> ay. N. Y. no. N. J. no. Pa<sup>a</sup> ay. Del. ay. Md<sup>d</sup> [“ay.” written upon “no.”] Va<sup>a</sup> ay. N. C. [“ay.” written upon “no.”] S. C. no. Geo. no.

“To receive fixt stipends by which they may be compensated for their services”. considered

General Pinkney proposed “that no Salary should be allowed”. As this branch was meant to represent the wealth of the Country, it ought to be composed of persons of wealth; and if no allowance was to be made the wealthy alone would undertake the service. <sup>strike out the Clause.</sup> He moved to

Doct<sup>r</sup> Franklin seconded the motion. He wished the Convention to stand fair with the people. There were in it a number of young men who would probably be of the Senate.

If lucrative appointments should be recommended we might be chargeable with having carved out places for ourselves.

On the question.—<sup>Connecticut</sup> Mas<sup>ts</sup>, <sup>P<sup>a</sup>.</sup> [<sup>" Del."</sup> stricken out] M<sup>d</sup>, [<sup>" Virga."</sup> stricken out] <sup>S. Carolina</sup> Ay.  
<sup>Del. Virga.</sup> [<sup>" Con."</sup> stricken out] N. Y. N. J. · N. C. [<sup>" S. C."</sup> stricken out] Geo. no.

M<sup>r</sup> Williamson moved to change the expression into these words towit. "to receive a compensation for the devotion of their time to the public Service". The motion was seconded by M<sup>r</sup> Elsworth. And was agreed to by all the States except S. Carol<sup>a</sup>. It seemed to be meant only to get rid of the word "fixt" and leave greater room for modifying the provision on this point.

M<sup>r</sup> Elsworth moved to strike out "to be paid out of the nati<sup>l</sup> Treasury" and insert "to be paid by their respective States". If the Senate was meant to strengthen the Gov<sup>t</sup> it ought to have the confidence of the States. The States will have an interest in keeping up a representation and will make such provision for supporting the members as will ensure their attendance.

M<sup>r</sup> Madison, considered this a departure from a fundamental principle, and subverting the end intended by allowing the Senate a duration of 6 years. They would if this motion should be agreed to, hold their places during pleasure; during the pleasure of the State Legislatures. One great <sup>end</sup> of the institution was, that being a firm, wise and impartial body, it might <sup>not</sup> only give stability to the Gen<sup>l</sup> Gov<sup>t</sup> in its operations on individuals, but hold an even balance among different States. The motion would make the Senate like Congress, the mere Agents & Advocates of State interests & views, instead of being the impartial umpires & Guardians of [<sup>" the "</sup> stricken out] justice and general Good. Cong<sup>s</sup> had lately by the establishment of a board [<sup>" for "</sup> stricken out] with full powers to decide on the mutual claims be-between the U.

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Quer. whether Connecticut — should not be — No. & Delaware Ay.

States & the individual States, fairly acknowledged themselves to be unfit for discharging this part of the business referred to them by the Confederation.

M<sup>r</sup> Dayton considered the payment of the Senate by the States as fatal to their independence. he was decided for paying them out of the Nat<sup>l</sup> Treasury.

On the question for payment of the Senate to be left to the States as moved by M<sup>r</sup> Elseworth

Mass<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. ay.

Col. Mason. He did not rise to make any motion, but to hint an idea which seemed to be proper for consideration. One important object [<sup>in constituting</sup> "of" stricken out] the Senate was to secure the rights of property. To give them weight & firmness for this purpose, a considerable duration in office was thought necessary. But a longer term than 6 years, would be of no avail in this respect, if needy persons should be appointed. He suggested therefore the propriety of annexing to the office a qualification of property. He thought this would be very practicable; as the rules of taxation would supply a scale for measuring the degree of wealth possessed by every man.

A question was then taken whether the words "to be paid out of the public treasury." should stand"

Mas<sup>ts</sup> ay. Con<sup>t</sup> no. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Butler moved to strike <sup>out</sup> the the ineligibility of Senators to State offices.

M<sup>r</sup> Williamson seconded the motion.

M<sup>r</sup> Wilson remarked the additional dependence <sup>wd</sup> this <sup>he</sup> create in the Senators on the States. The longer the time <sup>he</sup> observed

[illegible words stricken out] allotted to the ["Sena" stricken out] officer, the more compleat ["the" stricken out] dependance, if it exists at all.

Gen<sup>l</sup> Pinkney was for making the States as much as could be conveniently done a part of the Gen<sup>l</sup> Gov't: If the Senate was to be appointed by the States, it ought to be in pursuance of the same idea to be paid by the States: and the States ought not to be barred from the opportunity of calling members of it into offices at home. Such a restriction would also discourage the ablest men from ["under" stricken out] going into the Senate.

M<sup>r</sup> Williamson moved a resolution so penned as to admit of the two following questions. 1. whether the members of the Senate should be ineligible to & incapable of holding offices under the U. States

2. whether &c. under the particular States.

<sup>in order</sup>  
to postpone to consider Williamson's Resol<sup>n</sup>

On the ["1" stricken out] question. Mas<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gerry & M<sup>r</sup> M.<sup>Madison</sup>— move to add to M<sup>r</sup> Williamsons 1. quest: "and for 1 year thereafter". On this amend<sup>t</sup>

Mas<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. ay. N. J. no. P. no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no.

On M<sup>r</sup> Will—son's 1 Question as amend<sup>ed</sup> vz. inelig: & incapable &c. &c. for 1 year &c. ag<sup>t</sup> unanimously. ["Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. ay." stricken out.]

On the 2. question as to ineligibility &c. to State offices.

Mas. ay. C<sup>t</sup> no. N. Y. no. N. J. no. P. ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

The 5 Resol: "that each branch have the right of originating acts" was agreed to nem: con.

Adj<sup>d</sup>

Wednesday June 27. in Convention

M<sup>r</sup> Rutledge moved to postpone the 6<sup>th</sup> ["art" stricken out] <sup>Resolution, defining the powers of Cong<sup>s</sup>.</sup> in order to take up the 7 & 8 which involved the <sup>the rules of suffrage in the 2 branches</sup> most fundamental points; which was agreed to nem. con. ["Mr Lausing moved that the word "not" be struck so that it might read "that the right of suffrage in the first branch ought to be according to the rule established in the articles of Confederation"." stricken out.]

A question being proposed on Resol: 7 declaring that the suffrage in the first branch s<sup>d</sup>. be according to an equitable ratio

Mr L. Martin contended at great length and with great eagerness that the General Gov<sup>t</sup> was meant merely to preserve the State Govern<sup>ts</sup> not to govern individuals: that its powers ought to be kept within narrow limits; that if too little power was given to it, more might be added; but that if too much, it could never be resumed: that individuals as such have little to do but with their <sup>own</sup> States; that the Gen<sup>l</sup> Gov't. has no more to apprehend from the States composing <sup>the Union</sup> while it pursues proper measures, that a Gov<sup>t</sup> over individuals has to apprehend from its subjects: that to resort to the Citizens at large for their sanction to a new Govern<sup>t</sup> will be throwing them back into a State of Nature: that the dissolution of the State Gov<sup>ts</sup> is involved in the nature of the process: that the people have no right to do this without the consent of those to whom they have delegated their power for State purposes; through their tongue only they can <sup>e</sup>spak, through their ears, only, can hear: that the States have shewn a good disposition to comply with the Acts, of Cong<sup>s</sup> weak, contemptibly weak as that body has been; and have failed through inability alone to comply: that the heaviness of the private debts, and the waste of property <sup>chief</sup> during the war, were the causes of this inability; that he



did not conceive the instances mentioned by M<sup>r</sup> <sup>Madison</sup> [“M.” illegible word stricken out] of compacts between V<sup>a</sup> & M<sup>d</sup> between P<sup>a</sup> & N. J. or of troops raised by Mass<sup>ts</sup> for defence [“vs” stricken out] <sup>against</sup> the Rebels, to be violations of the articles of confederation—that an equal vote in each State was essential to the federal idea, and was founded in justice & freedom, not merely in policy: that tho’ the States may give up this right of sovereignty, yet they had not, and ought not: that the States like individuals were in a State of nature equally sovereign & free. In order to prove that individuals in a State of nature are equally free & independent he read passages from Locke, Vattel, Lord Summers—Priestly. To prove that the case is the same with States till they surrender their equal sovereignty, <sup>he</sup> read other passages in Locke & Vattel, and also Rutherford: that the States being equal cannot treat or confederate so as to give up an equality of votes without giving up their liberty: that the propositions on the table were a system of slavery for 10 States: that as V<sup>a</sup> Mas<sup>ts</sup> & P<sup>a</sup> have <sup>42</sup><sub>90</sub> of the votes <sup>they</sup> can do as they please without a miraculous of the other ten: that they will have nothing to do, but to gain over [“a fourth” stricken out] one of the ten to make them compleat masters of the rest, that they can then appoint an Execut<sup>e</sup> & Judiciary & legislate for them as they please: that there was & would continue a natural predilection & partiality in men for their own States; [“and” stricken out] that the States, particularly the smaller, would never allow a negative to be exercised over their laws: that no State in ratifying the Confederation had objected to the equality of votes; that the complaints at present run not ag<sup>st</sup> this equality but the want of power; that [“instead of” stricken out] 16 members from

V<sup>a</sup> would be more likely to act in concert than a like number formed of members from different States; that instead of a junction of the small States as a remedy, he thought a division of the large States would be more eligible.—This was the substance of a speech [<sup>which was continued</sup> “of” stricken out] <sup>^</sup> more than three hours. He was too much exhausted he said to finish his remarks, and reminded the House that he should tomorrow, resume them.

Adj<sup>d</sup>

Thursday June 28<sup>th</sup> in Convention

M<sup>r</sup> L. Martin resumed his discourse, contending that the Gen<sup>l</sup> Gov<sup>t</sup> ought to be formed for the States, not for individuals: that if the States were to <sup>have</sup> votes in proportion to their numbers of people, it would be the same thing whether their <sup>representatives</sup> <sup>^</sup> were chosen [“by” stricken out] by the Legislatures or the people; the smaller States would be equally enslaved; that if the large States have the same interest with the smaller as was urged, there could be no [“more” stricken out] danger in giving them an equal vote; they would not <sup>^</sup> injure themselves, and they could not injure the large ones on that supposition and if the interests were not the same the inequality of suffrage w<sup>d</sup>—be dangerous to the smaller States. without injuring themselves : that it will be in vain to propose any plan offensive to the rulers of the States, whose influence over the people will certainly prevent their adopting it: that the large States were weak at present in proportion to their extent: [“but” stricken out] <sup>&</sup> would only be made formidable to the smaller ones, by the weight of their votes; that in case a dissolution of the Union should take place, the small States would have nothing to fear from their power; that if in such a case the three great States should league

themselves together, the other ten could do so too: & that he had rather see partial Confederacies take place, than the plan on the table. ["He delivered these sentiments with great diffu" stricken out]. This was the substance of the residue of his discourse which was delivered with much diffuseness & considerable vehemence.

M<sup>r</sup> Lansing & M<sup>r</sup> Dayton moved to strike out "not," so that the 7 art: might read that the rights of suffrage in the 1<sup>st</sup> branch ought to be according to the rule established by the Confederation"

M<sup>r</sup> Dayton expressed great anxiety that the question might not be put till tomorrow; Govern<sup>r</sup> Livingston being ["de-  
tained" stricken out] <sup>kept away</sup> by indisposition, and the representation of N. Jersey thereby ["destroyed" stricken out] suspended.

M<sup>r</sup> Williamson. <sup>thought</sup> that if any political truth could be grounded on mathematical demonstration, it was that if the States were equally sovereign now, and parted with equal proportions of sovereignty, that they would remain equally sovereign. He could not comprehend how the smaller States would be injured in the case, and wished some gentleman would vouchsafe a solution of it. He observed that the small States, if they had a plurality of votes would have an interest in throwing the burdens off their own shoulders on those of the large ones. He begged that the expected addition of new States from the Westward might be kept in view. They would be small States, they would be poor States, ["they would have different interests from the Atlantic States," stricken out] they would be unable to pay in proportion to their numbers; their distance from market rendering the produce of their labour less valuable; they would consequently <sup>tempted</sup> be ["always ready" stricken out] to combine for the purpose

of laying burdens on <sup>commerce &</sup> consumption which would fall with greatest weight on the old States.

M<sup>r</sup> Madison s<sup>d</sup> he was much disposed to concur in any expedient ["that" stricken out] not inconsistent with fundamental principles, that could remove the difficulty concerning the ["pro" stricken out] rule of representation. ["If" stricken out] <sup>But</sup> <sup>neither</sup> he could be convinced that the rule contended for was just, nor necessary for the safety of the small States ag<sup>st</sup> <sup>[" " stricken out"]</sup> [illegible words stricken out] the large States. That it was not just, had been conceded by M<sup>r</sup> Breerly & M<sup>r</sup> Patterson themselves. <sup>[" " stricken out"]</sup> The expedient proposed by them was a new partition of the territory of the U. States. The fallacy of the reasoning drawn from the equality of Sovereign States in the formation of compacts, lay in confounding ["together" stricken out] mere Treaties, <sup>in</sup> which were specified certain <sup>duties to</sup> ["rules by" stricken out] which the parties were to be bound, and certain rules by which their subjects were to be reciprocally governed in their intercourse, with a compact by which an authority ["with" stricken out] was created paramount to ["both" stricken out] the parties, & making laws for the government of <sup>them</sup> ["both" stricken out]. If France, England & Spain were to enter <sup>for the regulation of commerce &c.</sup> into a Treaty, with the Prince of Monacho & 4 or 5 other of <sup>the</sup> smallest sovereigns of Europe, they would not hesitate to treat as equals, and to make the regulations perfectly reciprocal. W<sup>d</sup> the case be the same if a Council were to be formed of deputies from each with authority and discretion, to raise money, levy troops, determine the value of coin &c? Would 30 or 40. million of people submit their fortunes into the hands, of a few thousands? If they did it would only prove that they expected more from the terror of their superior force, than they feared from the <sup>selfishness</sup> ["partiality"]

stricken out] of their feeble [illegible word stricken out]<sup>associates</sup> ^  
 Why are Counties of the same States represented in proportion to their numbers? Is it because the representatives are chosen by the people themselves? so will be the representatives in the Nation<sup>l</sup> Legislature. Is it because, the larger ["will" stricken out] have more at stake than the smaller? ["So will" stricken out] The case will <sup>be</sup> the same with the larger & smaller States. Is it because the laws are to operate immediately on their persons & properties? The same is the case ["some" stricken out]<sup>in some degree</sup> as the articles of confederation stand; the same will be the case in <sup>a far greater degree</sup> ["an essential manner" stricken out] under the plan proposed to be substituted. In the cases of captures, of piracies, and of offenses <sup>in a</sup> ["ag<sup>st</sup> in the" stricken out] <sup>in a</sup> federal army, the property & persons of individuals depend on the laws of Cong<sup>s</sup>. By the plan<sup>proposed</sup>, a compleat power of taxation, the highest prerogative of supremacy is proposed to be vested in the National Gov<sup>t</sup>. Many other powers are added which assimilate it to the Gov<sup>t</sup>. of ["the" stricken out] individual States. The negative <sup>on the State laws</sup> proposed, will make it an essential branch of the State Legislatures & of course will require that it should be exercised by a body established on like principles with the other branches of those Legislatures.— ["H" stricken out]. That it <sup>is</sup> not necessary to secure the small States ag<sup>st</sup> the large ones he conceived to be equally obvious: [" " stricken out] Was a combination of the large ones dreaded? this must arise either from some interest common to ["the three" stricken out] V<sup>a</sup> Mas<sup>ts</sup> & P<sup>a</sup> & distinguishing them from the other States <sup>or from the mere circumstance of similarity of size</sup>. Did any such <sup>common</sup> interest exist? In point of situation they could not have been more effectually separated from each other by the most



jealous citizen of the most jealous State. In point of manners, Religion, and the other circumstances which sometimes beget affection between different communities, ["they were neither more nor less" <sup>they were not more</sup> stricken out] <sup>the</sup> assimilated than <sup>^</sup> other States.—In point of staple productions they were as dissimilar as any three other States in the Union.

The Staple of Mas<sup>ts</sup> was fish, of P<sup>a</sup> flower, of V<sup>a</sup> Tob<sup>o</sup> Was a Combination to be apprehended from the mere circumstance of equality of size? Experience suggested no ["size" stricken out] such danger. The journals of Cong<sup>s</sup> did not present any <sup>peculiar</sup> <sup>^</sup> association of these States in the votes recorded. It had never been seen that different Counties in the same State, conformable in extent, but disagreeing in other circumstances, betrayed a propensity to such combinations. Experience rather taught a contrary lesson. Among individuals of superior eminence & weight in society, rivalships were much more frequent than coalitions. Among independent nations pre-eminent over their neighbours, the same remark was verified. Carthage & Rome tore one another to pieces instead of uniting their forces to [<sup>devour</sup> "subdue" stricken out] the weaker nations of the Earth. The Houses of Austria & [<sup>France</sup> "Bourbon" stricken out] were hostile as long ["as long" stricken out] as they remained the greatest powers of Europe. England & France have succeeded [<sup>to</sup> "to" stricken out] the pre-eminence & to the enmity. To this principle we owe perhaps our liberty. A coalition between those powers would have been fatal to us. Among the principal members of antient & modern confederacies, we find the same effect from the same cause. The contentions, not the coalitions of Sparta, Athens & Thebes, proved fatal to the smaller members of the Amphyctionic Confederacy. The contentions, not the combinations of Prussia



& Austria, have distracted ["the repose &" stricken out] & oppressed the Germanic empire. ["2" stricken out] Were the large States formidable singly to their smaller neighbours? On this supposition the latter ought to wish for such a general Gov<sup>t</sup> as will operate with equal energy on the former as on themselves. The more lax the band ["of it shall be" stricken out], the more liberty the larger will have ["to" written upon "of"] avail["ing" stricken out] themselves of the superior<sup>force</sup>. Here again Expe-  
rience was an ["excellent" stricken out]<sup>instructive</sup> monitor. What is<sup>ye</sup> situation of the weak compared with the strong in those stages of civilization in which the violence of individuals is least controuled by ["the" stricken out] an efficient Government? ["consult the savages weaker" stricken out] The Heroic period of Antient Greece the feudal licentiousness of the middle ages of ["Greece" stricken out] Enrope, the existing condition of the American Savages, ["are a full answer to" stricken out]<sup>answer</sup> this question. What is the situa-  
tion of the minor ["nations among" stricken out]<sup>sovereigns</sup> in the great society of independent nations, in which the more powerful are under no controul but the nominal authority of the law of Nations? Is not the danger to the former exactly in proportion to their weakness. But there are cases still more in point. What was the condition of the weaker members of the Amphyctionic Confederacy. ["history informs us" stricken out] Plutarch [<sup>life of</sup> Themistocles] will inform us that it happened but too often that the strongest cities corrupted & awed the weaker, and that Judgment went in favor of the more powerful party. What is the condition of the lesser States in the German Confederacy? We all know that they are<sup>exceedingly</sup> trampled ["upon by the larger" stricken out]<sup>upon</sup> and that

they owe their safety as far as they enjoy it, partly to their enlisting themselves, under the rival banners of the pre-eminent members, partly to alliances with neighbouring ["nations" stricken out] Princes which the Constitution of the Empire does not prohibit. What is the state of things in the ["more <sup>lax system of the</sup> tranquil sessions of" stricken out] Dutch Confederacy? Holland contains about  $\frac{1}{2}$  the people, ["pays" <sup>supplies</sup> stricken out] about  $\frac{1}{2}$  of the money, and by her influence, silently & indirectly governs [illegible word stricken out] the whole Republic. In a word; the two extremes before us are a perfect ["independence" <sup>separation</sup> stricken out] & a perfect incorporation, of the 13 States. In the first case they ["will" <sup>would</sup> stricken out] be independent nations subject to no law, but the law of nations. In the last, they would be mere counties of ["the same" stricken out] one entire republic, ["a" stricken out] subject to one common law. In the first case the smaller states would have every thing to fear from the larger. In the last they would have <sup>to fear</sup> nothing. ["the reason therefore the States are brought the condition of Counties made to approach the last the t the for" stricken out] The true policy of the small States therefore lies in promoting those principles & that form of Gov<sup>t</sup> which will most approximate the States to the condition of Counties. Another consideration may be added. If the Gen<sup>l</sup> Gov<sup>t</sup> be feeble, the large States ["finding that" stricken out] distrusting its continuance, and foreseeing that their importance & security may depend on their own size & strength, will never submit to a partition. Give to the Gen<sup>l</sup> Gov<sup>t</sup> sufficient energy & permanency, & you remove the objection. Gradual partitions of the large, & junctions of the small <sup>States</sup> will be facilitated, and time ["will equa" <sup>may</sup> stricken out] effect that equalization,

which is wished for by the small States, now but can never be accomplished at once.

Mr Wilson. The leading argument of those who contend for equality of votes among the States is that the States as such being equal, and being represented <sup>["a" stricken out] districts of</sup> not as individuals, but in their political capacities <sup>& corporate</sup>, are entitled to an equality of suffrage. According to this mode of reasoning the representation of the burroughs in Engl<sup>d</sup> which has been allowed on all hands to be the rotten part of the Constitution, is perfectly right & proper. They are represented in their corporate capacity like the States therefore they are entitled to equal voices, old Sarum to as many as London. And instead of the injury supposed hitherto to be done to London, the true ground of complaint lies with old Sarum; for London instead of two which is her proper share, sends four representatives to Parliament.

Mr Sherman. The question is not what rights naturally belong to men; but how they may be <sup>most equally & effectually</sup> ["best" stricken out] guarded in Society. And if some give up more than others in order to obtain this end, there can be <sup>no</sup> room for complaint. To do otherwise, to require an equal concession from all, if it would create danger to the rights of some, would be sacrificing the end to the means. The rich man who enters into Society along with the poor man, gives up more than the poor man, yet with an equal vote he is equally safe. ["With a vote pro" stricken out] Were he to have more votes than the poor man in proportion to <sup>his</sup> ["thi" stricken out] superior stake ["he parts" stricken out], <sup>rights of the</sup> the poor man would immediately cease to be secure. This consideration prevailed when the articles of confederation were formed.

The determination of the question from striking out the word "not" was put off till to morrow at the request of the Deputies from N. York.

[“Doct<sup>r</sup> Franklin. He had observed with great concern the diversity of opinions that had prevailed throughout the deliberations of the Convention. This diversity was a melancholy proof of the want of wisdom to form a wise & proper Gov<sup>t</sup>. All the antient and modern Governments had been run over without finding any suited to our wants. In this Situation groping as we were in the dark, how has it happened that no body has thought of applying for light to that powerful friend who alone can supply it. He had lived a long time, and seen a great deal of the world, and was more & more convinced, that God ruled in the affairs of men. If as were informed by the sacred writings, a sparrow can not fall without his permission, how can an empire be raised without his divine aid. If we foolishly expect to succeed without it we shall like the builders of babel, fall into utter confusion, and be abandoned to such a Government as chance may impose on us. He therefore proposed “stricken out]     ^     see opposite page & insert the Speech of Doct<sup>r</sup>. F in this place.

[See page 235.]

Mr Sharman seconded the motion.

Mr Hamilton & several others expressed their apprehensions that however proper such a resolution might have been at the beginning of the convention, it might at this late day, 1. bring [“some” stricken out] on it some disagreeable animadversions. & 2. lead the public to believe that the embarrassments and dissensions within the convention, had suggested this measure. It was answered by Doct<sup>r</sup> F. Mr. Sherman & others, that the past omission of a duty could not justify a [“continuance” stricken out] further omission—that the rejection of such a proposition would expose the Convention to more unpleasant animadversions than the adoption of it: and that the alarm out of doors that might be excited for the

state of things within. would at least be as likely to do good as ill.

M<sup>r</sup> Williamson, observed that the true cause of the omission could not be mistaken. The Convention had no funds.

M<sup>r</sup> Randolph proposed in order to give a favorable aspect to y<sup>e</sup> measure, that a sermon be preached at the request of the convention on 4th of July, the anniversary of Independence,— & thenceforward prayers be used in y<sup>e</sup> Convention every morning. D<sup>r</sup> Frank<sup>n</sup> 2<sup>d</sup>ed this motion after several unsuccessful attempts for silently postponing the matter by adjourn<sup>g</sup>. the adjournment was at length carried, without any vote on the motion.

June 28. in convention.

M<sup>r</sup> President

[See Madison's note,  
page 234.]

The small progress we have made after 4 or five weeks close attendance & continual reasonings with each other—our different sentiments on almost <sup>every</sup> question, several of the last producing as many noes as ayes, is methinks a melancholy proof of the imperfection of the Human Understanding. We indeed seem to feel our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of Government, and examined the different forms of those Republics which having been formed with the seeds of their own dissolution now no longer exist. And we have viewed Modern States all round Europe, but find none of their Constitutions suitable to our circumstances.

In this situation of this Assembly, groping as it were in

the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the Contest with G. Britain, when we were sensible of danger we had daily prayer in this room for the divine protection.—Our prayers, Sir, were [“greatly” stricken out] heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a Superintending providence in our favor. To that kind providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? or do we imagine that we no longer need his assistance? I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that <sup>God</sup>governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings, that “except the Lord build the House they labour in vain that build it.” I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded, and we ourselves shall become a reproach and by word down to future ages. And what is worse, mankind may hereafter from this unfortunate instance, despair of establishing Governments by Human Wisdom and leave it to chance, war and conquest.

I therefore beg leave to move—that henceforth prayers imploring the assistance of Heaven, and its blessings on our



deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that service——

#### Friday June 29<sup>th</sup> in Convention

Doc<sup>r</sup> Johnson. The controversy must be endless whilst Gentlemen differ in the grounds of their arguments; Those on one side considering the States as districts of people composing one political Society; those on the other considering them as so many political societies. The fact is the States do exist as political Societies, and a Gov<sup>t</sup> is to be formed for them in their political capacity, as well as for the individuals composing them. Does it not seem to follow, that if the States as such are to exist they must be armed with some power of self-defence. This is the idea of [Col. Mason] who appears to have looked to the bottom of this matter. Besides the Aristocratic and other interests, which ought to have the means of defending themselves, [“this” stricken out]<sup>the</sup> States have their interests as such, and are equally entitled to likes means. On the whole he thought that as in some respects the States are to be considered in their political capacity, and in others as [“a” stricken out] districts of individual citizens, the two ideas embraced on different sides, instead of being opposed to each other, ought to be combined; that in one branch the people, ought to be represented; in the other, the States.

M<sup>r</sup> Ghorum. 'The States as now confederated have no doubt a right to refuse to be consolidated, or to be formed into any new system. But he wished the small States

which seemed most ready to object, to ["consider" stricken out] consider which are to give up most, they or the larger ones. He conceived that a rupture of the Union w<sup>d</sup> be an event unhappy for all, but surely the large States would be least unable to take care of themselves, and to make connections with ["each other" <sup>one another</sup> stricken out]. The weak therefore were most interested in establishing some general system for maintaining order. If among individuals, composed partly of weak, and partly of strong, the former <sup>need</sup> the protection of law & Government, the case is exactly the same with weak & powerful States. What would be the situation of Delaware (for these things he found must be spoken out, & it might as well be done first as last) what w<sup>d</sup> be the [illegible word <sup>situation</sup> stricken out] of Delaware in case of a separation of the States? Would she not lie at the mercy of Pennsylvania? would not her true interests lie in being consolidated with her, and ought she not now to wish for such a union with P<sup>a</sup> under one Gov<sup>t</sup> as will put it ["oup" stricken out] out of the power of Pen<sup>a</sup> to oppress her? Nothing can be more ideal than the danger apprehended <sup>n</sup> by the States, from their being formed into one nation. Mass<sup>ts</sup> was originally three colonies, viz old Mass<sup>ts</sup>—Plymouth—& the province of Mayne. These apprehensions existed then. An incorporation took place; ["&" stricken out] all parties were safe & satisfied; and every distinction is now forgotten. The case was similar with Connecticut & Newhaven. The dread of Union was reciprocal; the consequence of it equally salutary and satisfactory. In like manner N. Jersey has been made one society out of two parts. Should a separation take place, the fate of N. Jersey w<sup>d</sup> be worst of all. She has no foreign commerce & can have but

little. P<sup>a</sup> & N. York will continue to levy taxes on her consumption. If she consults her interest she w<sup>d</sup> beg of all things to be annihilated. The apprehensions of the small States ought to be appeased by another reflection. Mass<sup>ts</sup> will be divided. The province of Maine is already considered as approaching the term of its annexation to it; and P<sup>a</sup> will probably not increase, considering the present state of her population, & other events that may happen. On the whole he considered a Union of the States as necessary to their happiness, & a firm Gen<sup>l</sup> Govt. as necessary to their Union. He sh<sup>d</sup> consider it as his duty if his colleagues viewed the matter in the same light he did to stay here as long as any ["other State w<sup>d</sup>" illegible word stricken out] <sup>other State would remain</sup> with them, in order to agree <sup>on</sup> some plan that could with propriety be recommended to the people.

Mr. Elsworth, did not despair. He still trusted that some good plan of Gov<sup>t</sup>. w<sup>d</sup>. be devised & adopted.

Mr. Read. He sh<sup>d</sup> have no objection to the system if it were truly national, but it had too much of a federal mixture in it. The little States he thought had not much to fear. He suspected that the large States felt their want of energy, & wished for a gen<sup>l</sup> Gov<sup>t</sup> to supply the defect. Mass<sup>ts</sup> was evidently labouring under her weakness and he believed Delaware w<sup>d</sup> not be in much danger if in her neighbourhood. Delaware had enjoyed tranquillity & he flattered himself w<sup>d</sup> continue to do so. He was not however so selfish as not to wish for a good Gen<sup>l</sup> Gov<sup>t</sup>. In order to obtain one the whole States must be incorporated. If the States remain, the repre-<sup>["deputies" stricken out]</sup>sentatives of the large ones will stick together, and carry every thing before them. The Executive also will be chosen under the influence of this partiality, and will betray it in his administration. These jealousies are inseparable from the

scheme of leaving the States in Existence. They must be done away. ["He was" stricken out] The ungranted lands also which have been assumed by ["the" stricken out] particular States must also be given up. He repeated his approbation of the plan of M<sup>r</sup> Hamilton, & wished it to be substituted in place of that on the table.

M<sup>r</sup> Madison ["he" stricken out] agreed with Doc<sup>r</sup> Johnson, that the mixed nature of the Gov<sup>t</sup> ought to be kept in view; but thought too much stress was laid on the ["equal" stricken out] rank of the States as political societies. There was a gradation, he observed from the smallest corporation, with the most limited powers, to the largest empire with the most perfect sovereignty. He pointed out the limitations on the sovereignty of the States. as <sup>law</sup> their laws in relation to the paramount ["laws" stricken out] of the Confederacy were analogous now confederated; Under the proposed Gov<sup>t</sup> the ["ir to that of bye laws to the supreme law, within a State. powers of the States" stricken out] will be much farther reduced. According to the views of every member, the Gen<sup>l</sup> Gov<sup>t</sup> will have powers far beyond those exercised by the British Parliament when the States were part of the British Empire. It will in particular have the power, without the consent of the State Legislatures, to levy money directly on the people themselves; and therefore not to divest such unequal portions of the people as composed the several States, of an equal voice, would subject the system to the reproaches & evils which have resulted from the vicious representation in G. B.

He entreated the gentlemen representing the small States to renounce a principle w<sup>ch</sup> was confessedly unjust, which c<sup>d</sup> never be admitted, & if admitted must infuse mortality into a Constitution which we wished to last forever. He

prayed them to ponder well the consequences of suffering the Confederacy to go to pieces. It had been s<sup>d</sup> that the want of energy in the large states w<sup>d</sup> be a security to the small. It was forgotten that this want of energy proceeded from the supposed security of the States ag<sup>st</sup> all external danger. Let each State depend on itself for its security, & let apprehensions arise<sup>arise</sup> of danger from distant powers or from neighbouring States, & the languishing condition of all the States, large as well as small, w<sup>d</sup> soon be transformed into vigorous & high toned Gov<sup>ts</sup>. His great fear [“their” stricken out] was that their Gov<sup>ts</sup> w<sup>d</sup> then have too much energy, that these might not only be formidable in the large to the small States, but fatal to the internal liberty of all. [“The weakness” stricken out] <sup>The same causes</sup> which have rendered the old world the Theatre of incessant wars, & have banished liberty from the face of it, w<sup>d</sup> soon produce the same effects here. The weakness & jealousy of the small States w<sup>d</sup> quickly introduce some regular military force ag<sup>st</sup> sudden danger from their powerful neighbours. The example w<sup>d</sup> be followed by others, and w<sup>d</sup> soon become universal. In time of actual war, great discretionary powers are constantly given to the [“Executive Magistrate” stricken out] Executive Magistrate. Constant apprehension of War, has the same tendency to render the head too large for the body. A [“military” stricken out] standing military force, with an overgrown Executive will not long be safe companions to liberty. The means of defence ag<sup>st</sup> foreign danger, have been always the instruments of tyranny at home. Among the Romans it was a standing maxim to excite a war, whenever a revolt was apprehended. Throughout all Europe, the armies kept up under the pretext of defending,

have enslaved the people. ["perh" stricken out] It is perhaps questionable, whether the best concerted system of absolute power in Europe c<sup>d</sup> maintain itself, in a situation, where no alarms of external danger c<sup>d</sup> tame the people to the domestic yoke. The insular situation of G. Britain was the principal cause of her being an exception to the general fate of Europe. It [<sup>has</sup> "hav" stricken out] rendered less defence necessary, and admitted a kind of defence w<sup>ch</sup> c<sup>d</sup> not be used for the purpose of oppression.—These consequences he conceived ought to be apprehended whether the States should run into a total separation from each other, or sh<sup>d</sup> enter into partial confederacies. Either event w<sup>d</sup> be truly deplorable; & those who might be accessory to either, would never be forgiven by their Country, nor by themselves.

[\*\*This was the last day of his remaining with the Convention previous to" stricken out.]

\* Mr Hamilton observed that individuals forming political Societies modify their rights differently, with regard to suffrage. Examples of it are found in all the States. In all of them some individuals are deprived of the right altogether, not having the requisite qualification of property. In some of the States the right of suffrage is allowed in some cases and refused in others. To vote for a member in one branch, a certain quantum of property, to vote for a member in another branch of the Legislature, a higher quantum of property is required. In like manner States may modify their right of suffrage differently, the larger exercising a larger, the smaller a smaller share of it. But as States are a collection of individual men which ought we to respect most, <sup>the rights of</sup> <sub>of</sub> the people composing them, or the artificial beings resulting from the composition. Nothing could be more preposterous or absurd than to sacrifice

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\* From this date he was absent till the of



the former to the latter. It ha["s" written upon "d"] been s<sup>d</sup> that if the smaller States renounce their equality, they renounce at the same time their liberty. The truth <sup>is</sup> it is a contest for power, not for liberty. Will the men composing the small States be less free than those composing the larger.

[“If” stricken out] The State of Delaware <sup>having 40,000 souls</sup> will lose power, if <sup>she</sup> has <sup>only</sup>  $\frac{1}{10}$  of the votes allowed to P<sup>a</sup> having 400,000: but will the people of Del: be less free, if each citizen has an equal vote with each citizen of P<sup>a</sup>. He admitted that common residence within the same State would produce a certain degree of attachment; and that this principle might have a certain influence in public affairs. He thought however that this might by some [“restriction” stricken out] precautions be in a great measure excluded: and that <sup>no</sup> material inconvenience could result from it, as there could not be any ground for combination among [“those” stricken out] the States whose influence was most dreaded. The only considerable distinction of interests, lay between the carrying & non-carrying States, which divide[“d” stricken out] instead of uniting the largest States. No considerable inconvenience had been found from the division of the State of N. York into different districts, of different sizes. ¶ Some of the consequences of a dissolution of the Union, and the establishment of partial confederacies, had been pointed out. He would add another of [“great moment” stricken out] a most serious nature. Alliances will immediately be formed with different rival & hostile nations of Europes, who will foment disturbances among ourselves, and make us parties to all their own quarrels. Foreign nations <sup>having American dominions</sup> are & must be jealous of us. Their representatives betray the utmost anxiety for our fate, & for the result of this meeting, which must have an essen-

tial influence on it.—It had been said that respectability in the eyes of foreign Nations was not the object at which we aimed; [“but” stricken out] that the proper object of republican Government was <sup>domestic</sup> tranquillity & happiness. This was an ideal distinction. No Government could give us tranquillity & happiness at home, which did not possess sufficient stability and strength to make us respectable abroad. [“He urged” stricken out] This was the critical moment for forming such a government. We should run every risk in trusting to future amendments. As yet we retain the habits of union. We [“are” written upon “were”] weak & sensible of our weakness. Henceforward the motives will become feebler, and the difficulties greater. It is a miracle that we were now here exercising our <sup>tranquil & free</sup> deliberations on the subject. It would be madness to trust to [“a reproduc” stricken out] future miracles. A thousand causes must obstruct a reproduction of them.

Mr. Peirce considered the equality of votes under the Confederation as the great source of the public difficulties. The members of Cong<sup>s</sup>. were advocates for local advantages. State distinctions must be sacrificed as far as the general good required: but without destroying the States. Tho’ from a small State he felt himself a Citizen of the U. S.

Mr. Gerry, urged that we never were independent States, were not such now, & never could be even on the principles of the Confederation. The States & the advocates for them were intoxicated with the idea of their sovereignty. He was a member of Congress at the time the federal articles were formed. The injustice of allowing each State an equal vote was long insisted on. He voted for it, but it was ag<sup>st</sup> his Judgment, and under the pressure of public danger, and the obstinacy of the lesser States. The present confederation he considered as dissolving. The fate of the Union will be decided by the Convention. If they do not agree on something, few delegates will probably be appointed to Cong<sup>s</sup>. If

they do Cong<sup>s</sup> will probably be kept up till the new System should be adopted—He lamented that instead of coming here like a band of brothers, belonging to the same family, we [“were acting proceed” stricken out] seemed to have brought with us the spirit of political negociators.

M<sup>r</sup> L. Martin. remarked that the language of the States being Sovereign & independent, was once familiar & understood; though it seemed no[“w” written upon “t”] so strange & obscure. He read those passages in the articles of Confederation, which [“speak” stricken out] describe them in that language.

On the question [illegible word stricken out] as moved by Mr. Lansing. Shall the word “not” be struck out.

Mass<sup>ts</sup> no. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no. N. C. no. S. C. no. Geo. no

motion to agree to the clause [“sentence” stricken out] as reported. “that the rule of suffrage in

On the [“question for agreeing to the clause. Sent”  
the 1<sup>st</sup>, branch ought not to be according to that established by the Articles of Confederation.  
stricken out]. Mass. ay. Con<sup>t</sup> [“no” written upon “ay”]  
N. Y. no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay. N. C. ay.  
S. C. ay. Geo. ay.

Doc<sup>t</sup> Johnson & M<sup>r</sup> Elsworth moved to postpone the residue of the clause, and take up—y<sup>e</sup> 8—Resol:

On question

Mass. no. Con<sup>t</sup> ay. N. Y. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Elsworth moved that the rule of suffrage in the 2<sup>d</sup> branch be the same with that established by the articles of confederation”. He was not sorry on the whole he said that the vote just passed, had determined against this rule in the first branch. He hoped it would become a ground of compromise with regard to the 2<sup>d</sup> branch. We were partly national; partly federal. The proportional representation in the first branch would secure the large States ag<sup>st</sup> the small. An

equality of voices was conformable to the federal principle and was necessary to secure the Small States ag<sup>st</sup> the large. He trusted that on this middle ground a compromise would take place. He did not see that it could on any other. And if no compromise should take place, our meeting would not only be in vain but worse than in vain. To the Eastward he was sure Mass<sup>ts</sup> was the only State that would listen to a proposition for excluding the States as equal political Societies, from an equal voice in ["it" stricken out] both branches. The others would risk every consequence rather than part with so dear a right. An attempt to deprive them of it, was at once cutting the body <sup>of America</sup> in two, and as he supposed would be the case, somewhere about this part of it. The large States he conceived would notwithstanding the equality of votes, have an influence that would maintain their superiority. Holland, as had been ["claimed" stricken out] <sup>admitted</sup> [by M<sup>r</sup>—  
<sup>Madison</sup>       ] had, notwithstanding a ["n" stricken out] <sup>like</sup> equality in  
<sup>Dutch</sup> the Confederacy, a prevailing influence in the public measures. The power of self-defence was essential to the small States. Nature had given it to the smallest insect of the creation. He could never admit that there was no danger of combinations among the large States. They will like individuals find out and avail themselves of the advantage to be gained by it. It was true the danger would be greater, if they were contiguous and had a more immediate common <sup>defensive</sup> interest. A combination of the small States was rendered more difficult by their greater number. He would mention another consideration of great weight. The ["present" <sup>existing</sup> stricken out] confederation ["had" stricken out] was founded on the equality of the States in the article of suffrage: was it meant to pay no regard to this antecedent plighted faith.

Let a strong Executive, a Judiciary & Legislative power be created; but Let not too much be attempted; by which all may be lost. He was not in general a half-way man, yet he preferred doing half the good we could, rather than do ["none" stricken out<sup>nothing</sup> <sub>shall be</sub>] at all. The other half may be added, when the necessity ["is" stricken out] more fully experienced.

M<sup>r</sup> Baldwin would have wished that the powers of the General Legislature had been defined, before the mode of constituting it had been agitated. He should vote against the motion of M<sup>r</sup> Elsworth, tho' he did not like the Resolution as it stood in the Report of the Committee of the whole. He thought the second branch ought to be the representation of property, and that in forming it therefore some reference ought to be had to the relative wealth of their Constituents, and to the principles on which the Senate of Mass<sup>ts</sup> was constituted. He concurred with those who thought it w<sup>d</sup>. be impossible for the Gen<sup>l</sup>. Legislature to extend its cares to the local matters of the States.

Adj<sup>d</sup>

Saturday June 30. 1787. in Convention

M<sup>r</sup> Brearly moved that the Presid<sup>t</sup> write to the Executive of N. Hampshire, informing it that the business depending before the Convention was of such a nature as to require the immediate attendance of the ["of the" stricken out] deputies of that State. In support of his motion he observed that the difficulties of the subject and the diversity of opinions called for all the assistance we could possibly obtain. [it was well understood that the object was to add N. Hampshire to the n<sup>o</sup> of States opposed to the doctrine of proportional represen-

tation, which it was presumed from her relative size she must be adverse to].

Mr Patterson seconded the motion

Mr Rutledge could see neither <sup>the</sup> necessity nor propriety of such a measure. They are not unapprized of the meeting, and can attend if they choose. Rho. Island might as well be urged to appoint & send deputies. Are we to suspend the business until the deputies arrive? if we proceed he hoped all the great points would be adjusted before the letter could produce its effect.

Mr King. said he <sup>had</sup> written more than once as a private correspondent, & the answers gave him every reason to expect ["the" and an illegible word stricken out] that State would be represented very shortly, if it sh<sup>d</sup> be so at all. Circumstances of a personal nature had hitherto prevented it. A letter c<sup>d</sup> have no effect.

Mr Wilson wished to know whether it would be consistent with the <sup>or reason</sup> rule of secrecy, to communicate to N. Hamshire ["& not to other States" stricken out] that the business was of such a nature as the motion described. It w<sup>d</sup> spread a great alarm. Besides he doubted the propriety of soliciting any State on the subject; the meeting being merely voluntary—on the motion of Mr Breatly

Mass<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. ay. N. J. ay. Pa<sup>a</sup> not on y<sup>e</sup> floor. Del not on floor. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no. N. C. no. S. C. no. Geo. not on floor.

The motion of Mr Elseworth resumed for allowing each State an equal vote in y<sup>e</sup> 2<sup>d</sup> branch

Mr Wilson did not expect such a motion after the establishment of y<sup>e</sup> contrary principle in the 1<sup>st</sup> branch; and considering the reasons which would oppose it, even if an equal vote had been allowed in the 1<sup>st</sup> branch. The Gentleman from



Connecticut [M<sup>r</sup> Elsworth] had pronounced that if the motion should not be acceded to, <sup>of</sup> all the States North of Penn<sup>a</sup> one only would agree to any Gen<sup>l</sup> Government. He entertained more favorable hopes of Conn<sup>t</sup> and of the other Northern States. He hoped the alarms exceeded their cause, and that they would not abandon a Country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place, it could never happen ["more favor" stricken out] on better grounds. The votes of yesterday ag<sup>st</sup> the just principle of representation, were as 22 to 90 of the people of America. Taking the opinions to be the same on this point, and he was sure if there was any room for change it could not be on the side of the majority, ["he would ask which was" <sup>the question will be</sup> stricken out] shall less than  $\frac{1}{4}$  of the U. States withdraw themselves from the Union, or shall more than  $\frac{3}{4}$  renounce the inherent, indisputable, and unalienable rights of men, in favor of the artificial systems of States. If issue must be joined, <sup>it was</sup> on this point he [illegible words stricken out] would chuse to join it. The gentleman from Connecticut in supposing that the ["proper" stricken out] preponderacy secured to the majority in the 1<sup>st</sup> branch had removed the objections to an equality of votes in the 2<sup>d</sup> branch, <sup>the</sup> for the security of, minority narrowed the case extremely. Such an equality will enable the minority to controul in all cases whatsoever, the sentiments and interests of the majority. Seven States will controul six: seven States according to the estimates that had been used, composed  $\frac{24}{90}$  of the whole people. It would be in

the power then of less than  $\frac{1}{3}$  to overrule  $\frac{2}{3}$  whenever a question should happen to divide the States in that manner. Can we forget for whom we are forming a Government? Is it for men, or for the imaginary beings called States? Will our honest Constituents be satisfied with metaphysical distinctions? Will they, ought they to be satisfied with being told that one third [<sup>the</sup>“of the number of people” stricken out], compose [<sup>the greater number of</sup>“more” stricken out] States. The rule of suffrage [<sup>the</sup>“they will” stricken out] ought on every principle to be the same in the 2<sup>d</sup> as in the 1<sup>st</sup> branch. If the Government be not laid on this foundation, it can be neither solid nor lasting, any other principle will be local, confined & temporary. This will [<sup>the</sup>“open” stricken out] expand with the expansion, and grow with the growth of the U. States.— Much has been said of an imaginary combination of three States. Sometimes a danger of monarchy, sometimes of aristocracy has been charged on it. No explanation however of the danger has been vouchsafed. It would be easy to prove both from reason & history that rivalships would be more probable than coalitions; and that there <sup>are no</sup> [<sup>the</sup>“is not” and an illegible word stricken out] coinciding interests that could produce the latter. No answer has yet been given to the observations of [<sup>Madison</sup> M<sup>r</sup> — on this subject. Should the Executive Magistrate be taken from one of the large States would not the other two be thereby thrown into the scale with the other States? Whence then the danger of monarchy? Are the people of the three large States more aristocratic than those of the small ones? Whence then <sup>the</sup> — danger of aristocracy from their influence? It is all a mere illusion of names. We talk of States, till we forget what they are composed of. Is a real & fair majority, the natural

hot-bed of aristocracy? It is a part of the definition of this species of Gov<sup>t</sup> or rather of tyranny, that the smaller number governs the greater. It is true that ["seven" stricken out]<sup>a majority of</sup> States in the 2<sup>d</sup> branch can not carry a law ag<sup>st</sup><sup>only of</sup> a majority of the people in the 1<sup>st</sup>. But this removes half the objection. Bad Govern<sup>ts</sup> are of two sorts. 1. that which does too little. 2. that which does too much: that which fails thro' weakness; and that which ["rules" stricken out] destroys thro' oppression. Under which of these evils do the U. States at present groan? ["Un" stricken out] under the weakness and inefficiency of its Govern<sup>t</sup>. To remedy this weakness we have been sent to this Convention. If the motion should be agreed to, we shall leave the U. S. ["under" stricken out] fettered precisely as heretofore; with the additional mortification of seeing the good purposes of y<sup>e</sup> fair representation<sup>of the people</sup> in the 1<sup>st</sup> branch, defeated in 2<sup>d</sup>. Twenty four will still controul sixty six. He lamented that such a disagreement should prevail on the point of representation, as he did not foresee that it would happen on the other point most contested, the boundary between the Gen<sup>l</sup> & the local authorities. He thought the States necessary & valuable parts of a good system.

M<sup>r</sup> Elseworth. The capital objection of M<sup>r</sup> Wilson ["is" stricken out] "that the minority will rule the majority" is not true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that the few should have a check on the many? Is it not the case in the British Constitution the wisdom of which so many gentlemen have united in applauding? Have not the House of Lords, who

form so small a proportion of the nation a negative on the laws, as a necessary defence of their peculiar rights ag<sup>st</sup> the encroachm<sup>ts</sup> of the Commons. No instance <sup>of a Confederacy</sup> has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to another. We are razing the foundations of the building. When we need only repair the roof. No salutary measure has been lost for want of a majority of the States, to favor it. If security be all that the great States wish for ["it is provided in" stricken out] the 1<sup>st</sup> branch secures them. The danger of combinations among them is not imaginary. Altho' no particular abuses could be foreseen by him, the possibility of them would be sufficient to alarm him. But he could easily conceive cases in which they might result from such combinations. Suppose that in pursuance of some commercial treaty or arrangement, three or four free ports & no more were to be established would not combinations be formed in favor of Boston, Philad<sup>a</sup> & <sup>& some port in</sup> Chesapeak? A like ["combination" stricken out] concert might be formed in the appointment of the great officers. He appealed again to the obligations of the federal pact which was still in force, and which had been entered into with so much solemnity, persuading himself that some regard would still be paid to <sup>the plighted</sup> faith under which ["all the States" stricken out] each State small as well as great, held an equal right of suffrage in the general Councils. His remarks were not the result of particular or local views. The State he represented

[Connecticut] held a middle rank.

Mr Madison. <sup>did justice to the able and close reasoning of Mr. E. but must observe</sup> ["observed that the reasoning of Mr E. at that it did <sup>not</sup> always accord with itself. different times did not well" and an illegible word stricken out] On another occasion, the large States were described <sup>by him</sup> as the Aristocratic States, ready to oppress the small. Now

the small are the House of Lords requiring a negative to defend them ag<sup>st</sup> the more numerous Commons. M<sup>r</sup> E. had also erred in saying that no instance had existed in which confederated States had not retained to themselves a perfect equality of suffrage. Passing over the German system in which the K. of Prussia has nine voices, he reminded M<sup>r</sup> E. of the Lycian confederacy, in <sup>which</sup> the component members had votes proportioned to their importance, and which Montesquieu recommends as the fittest model for that form of Government. ["In reply to M<sup>r</sup>" stricken out] Had the fact been as stated by M<sup>r</sup> E. it would have been of little avail to him, or rather would have strengthened the arguments ag<sup>st</sup> him; The History <sup>& fate</sup> of the several Confederacies modern as well as Antient, demonstrating some radical view in their structure. In reply to the appeal of M<sup>r</sup> E. to the faith plighted in the existing federal compact, he remarked that the party claiming <sup>from others</sup> an adherence to a common engagement ought at least to be guiltless <sup>itself</sup> of a violation. ["of it" stricken out] Of all the States however Connecticut was perhaps least able to urge this plea. Besides the various omissions ["of" stricken out] to perform the stipulated acts from which no State was free, the Legislature of that State had by a pretty recent vote positively refused to pass <sup>a</sup> law for complying with the Requisitions of Cong<sup>s</sup> and had transmitted a copy of the vote to Cong<sup>s</sup>. It was urged, he said, continually that an equality of votes in the 2<sup>d</sup> branch was not only necessary to secure the small, but ["was" stricken out] would be perfectly safe to the large ones whose ["rule" stricken out] majority in the 1<sup>st</sup> branch was an effectual bulwark. ["It seemed not to be recollected that" stricken out] <sup>but</sup> notwithstanding this apparent ["bulwark" stricken out] defence,



the Majority of States might still injure the majority of people. 1. they could obstruct the wishes and interests of the majority. 2. they could extort measures, repugnant to the wishes & interest of the majority. 3. They could impose measures adverse thereto; as the 2<sup>d</sup> branch will probly exercise some great powers, in which the 1<sup>st</sup> will not participate. He admitted that every peculiar interest whether in any class of citizens, or any description of States, ought to be secured as far as possible. Whenever there is danger of attack there ought given a constitutional power of defence. But he contended that the ["States difference of interests among the" States were divided into different interests stricken out] not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from <sup>the effects of</sup> their having or not having ["large proper," <sup>["a population of," stricken out]</sup> stricken out] slaves. These two causes concurred in ["distinguishing dividing" stricken out] forming the great division of interests in the U. States. It did not lie between the large & small States: it lay between the Northern & Southern. and if any defensive power were necessary, it ought to be <sup>mutually</sup> given to these two interests, ["as a security <sup>st.</sup> ag the encroachments of each other" stricken out]. He was so strongly impressed with this important truth <sup>that</sup> <sup>been</sup> he had ["thought of any" <sup>casting about in his mind for some</sup> stricken out] <sup>if</sup> expedient that would answer the purpose. The one which had occurred was that instead of ["giving to the States the same rule pro" stricken out] proportioning the votes of the States in both branches, to their respective numbers of inhabitants computing the slaves in the ratio of 5 to 3. they should be represented in one branch according to the number of free inhabitants only; and in the other according to the <sup>counting</sup> <sup>if</sup> ["ir" stricken out] whole n<sup>o</sup> counting the slaves as free. By this arrangement the South-



ern Scale would have the advantage in one House, and the Northern in the other. He had been restrained from ["mak" stricken out]<sup>propos</sup> ing this expedient by two considerations; one was his unwillingness to urge any diversity of interests on an occasion when ["they are"<sup>it is</sup> stricken out] but too apt to arise of itself—the other was the inequality of powers that must be vested in the two branches, and which w<sup>d</sup> [<sup>destroy the</sup> "render the expedient" stricken out] equilibrium of interests.

M<sup>r</sup> Elsworth assured the House that whatever might be thought of the Representatives of Connecticut the State was in her disposition. He appealed to her great exertions during the War, in supplying both men & entirely federal ["and he hoped that with", illegible word, money. The muster rolls would <sup>show</sup> she had more troops in the field than Virga. If she had been "truth", illegible word, "would" stricken out] delinquent, it had been from inability, and not more so than other States <sup>adjoin</sup>

M<sup>r</sup> Sherman. M<sup>r</sup> M. had animadverted on the delinquency of the States, when his object required him to prove that the Constitution of Cong<sup>s</sup> was faulty. Cong<sup>s</sup> is not to blame for the faults of the States. Their measures have been right, and the only ["two" stricken out] thing wanting has been, ["a power to" stricken out] a further power in Cong<sup>s</sup> to render them effectual.

M<sup>r</sup> Davy was much embarrassed and wished for explanations. The Report of the Committee allowing the Legislatures to choose the Senate, and establishing a proportional representation in it, seemed to be impracticable. There will according to this rule be ninety members in the outset, and the numbers will increase as new States are added. It was impossible that so numerous a body could possess the ["requisite" stricken out] activity and other qualities required in it. Were he <sup>to</sup> vote on the comparative merits of the report as it stood, and the amendment, he should be constrained to prefer the latter. The appointment of the Senate

by the electors chosen by the people for that purpose was he conceived liable to an insuperable difficulty. The larger Counties or districts thrown into a general district, would certainly prevail over the smaller Counties or districts, and merit in the latter would be excluded altogether. ["So far th He thought" stricken out] The report therefore <sup>seemed to be</sup> right in referring the appointment to the Legislatures, whose agency in the general System did not appear to him objectionable as it did to some others. The fact was that <sup>the</sup> local prejudices <sup>&</sup> interests which could not be denied to exist, would find their way into the national Councils whether the Representatives should be chosen by the Legislatures or <sup>by</sup> the people themselves. On the other hand, if a proportional representation was attended with insuperable difficulties, the making the Senate the Representative of the States, looked like bringing us back to Cong<sup>s</sup> again, and shutting out all the advantages expected from it. Under this view of the subject he could not vote for any plan ["of" stricken out] <sup>ht</sup> for the Senate yet proposed. He thoug<sup>t</sup> that in general there were extremes on both sides. We were partly federal, partly national in our ["Constitntion" stricken out] Union. And he did not see why the Gov<sup>t</sup> might <sup>not</sup> in some respects operate on the States, in others on the people.

Mr Wilson admitted the question concerning the number of Senators, to be embarrassing. If the small <sup>est</sup> States be allowed one, and the others in ["the" stricken out] proportion, the Senate will certainly be too numerous. He looked forward to the time when the smallest States will <sup>d</sup> contain 100,000 souls at least. Let there be then one Senator in each for every 100,000 souls, and let the States not having that n<sup>o</sup> of inhabitants be allowed one. He was willing him-

self to submit to this ["intermediate" stricken out] temporary concession to the small States: and threw out the idea as a ground of compromise.

Doc<sup>t</sup> Franklin The diversity of opinions turns on two points. If a proportional representation takes place, the small States contend that their liberties will be in danger. If an equality of votes is to be put in its place, the large States say that their money will be in danger. When a broad table is to be made, and the <sup>of planks do not fit</sup> edges ["are unequal" stricken out] the artist takes a little from both, and makes a good joint. In like manner here both sides must part with some of their demands, in order that they may join in some accommodating proposition. He had prepared one which <sup>he</sup> would read, that it might lie on the table for consideration. The proposition was in the ["f" stricken out] words following"

"That the Legislatures of the several States shall choose & send an equal number of Delegates, namely <sup>General</sup> who are to compose the 2<sup>d</sup> branch of the ["National" stricken out] Legislature—

That in all cases on questions wherein the Sovereignty of individual States may be affected, or whereby their authority over their own Citizens may be diminished, or the authority of the General ["Legislature" stricken out] Government within the several States augmented, each State shall have equal suffrage.

That in the appointment of all Civil Officers of y<sup>e</sup> Gen<sup>l</sup> Gov<sup>t</sup> in the election of whom the 2<sup>d</sup> branch may by the Constitution have part, each State shall have equal suffrage.

That in fixing the salaries of such officers, and in all allowances for public services, and generally in all appropriations & dispositions of money to be drawn out of the Gen-

eral Treasury; and in all laws for supplying that Treasury, the Delegates of the several States shall have suffrage in proportion to the Sums which their respective States do actually contribute to the Treasury

"Where a ship had many owners this was the rule of deciding on her expedition. He had been one of the ministers from this Country to France during the joint war and wd. have been [“be” stricken out] allowed a vote in distributing the money to carry it on. have . very glad if [“we cd. have had” stricken out] a vote in distributing the money to carry it on.

M<sup>r</sup> King observed that the simple question <sup>was</sup> whether each State should have an equal vote in the 2<sup>d</sup> branch; that [“it” stricken out] it must be apparent to those gentlemen who liked neither the motion for this equality, nor the report as it stood, that the report was as susceptible of melioration as the motion; that a reform would be nugatory if we should make another Congress of the proposed Senate: that if the adherence to an equality of votes was fixed & unalterable, there could not be less obstinacy on the other side, & that, <sup>we</sup> were in fact cut insunder already, and it was in vain to shut our eyes against it: that he was however filled with astonishment that [“when” <sup>if</sup> stricken out] we were convinced that every man in America was secured in [“his in” stricken out] all his rights, we should be ready to sacrifice this substantial good to the phantom of State sovereignty: that his feelings were more harrowed & his [“alarms” stricken out] fears more agitated for his Country than he could express, that he conceived this to be the last opportunity of providing for its liberty & happiness: that he could not therefore but repeat his amazement that when a just Govern<sup>t</sup> founded on a fair representation of the people of America was within our reach, we should renounce the blessing, from an attachment to the ideal freedom & [“to” stricken out] importance of States: that should this wonderful illusion continue to prevail, his mind [“mind” stricken out] was prepared for any event, rather than sit down under a Gov<sup>t</sup> founded in a

vicious principle of representation and which must be as shortlived as it would be unjust. He [<sup>might</sup> "could" stricken out] prevail on himself to accede to some such expedient as had been hinted by Mr. Wilson: but he never could listen to an equality of votes as proposed in the motion.

Mr Dayton. When assertion is given for proof, and terror substituted for argument, he presumed they would have no effect however eloquently spoken. It should have been shewn that the evils we have experienced have proceeded from the equality now objected to: and that the seeds of dissolution for the State Governments are not sown in the Genl Government. He considered the system on the table as a novelty, an amphibious monster; and was persuaded that it never could be rec<sup>d</sup> by the people.

Mr. Martin w<sup>d</sup>. never confederate if it could not be done on just principles

Mr<sup>r</sup> Madison would acquiesce in the concession hinted by Mr Wilson, on condition that a <sup>due</sup> independence should be given to the Senate. The plan in its present shape makes the Senate absolutely dependent on the States. The Senate therefore is only another edition of Cong<sup>s</sup> [<sup>He knew the faults of</sup> "with very few <sup>Body</sup> that had used a bold language ag<sup>t</sup>. it. Still he w<sup>d</sup>. preserve the State rights, as carefully as the amendments. . Make it properly and state which", illegible words "lessen" illegible word "from what States the <sup>["members" stricken out.]</sup> ^", illegible words stricken out]

Mr Bedford, contended that there was no middle way between a perfect consolidation and a mere confederacy of the States. The first is out of the question, and in the latter they must continue if not perfectly, yet equally sovereign. If political Societies possess ambition avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gen-

tleman doubts it let him look at the votes. Have they not  
 been dictated by interest, by ambition? Are not the large  
 States evidently seeking to aggrandise themselves at the  
 expense of the small? They think no doubt that they have  
 right on their side, but interest had blinded their eyes.  
 ["Even" stricken out] Look at Georgia. Though a small  
 State at present, she is actuated by the prospect of soon  
 being a great one. S. Carolina is actuated both by present  
 interest & future prospects. She hopes too to see the other  
 States cut down to her own dimensions. N. Carolina has the  
 same motives of present & future interest. Virg<sup>a</sup> follows.  
 Mary<sup>d</sup> is not on that side of the Question. Pen<sup>a</sup> has a direct  
 and future interest. Mass<sup>ts</sup> has a decided and palpable inter-  
 est in the part she takes. Can it be expected that the small  
 States will act from pure disinterestedness. Look at G.  
 Britain. Is the Representation there less unequal? But we  
 shall be told again that that is the rotten part of the Consti-  
 tution. Have not the boroughs however held fast their  
 constitutional rights? and are we to act with greater purity  
 than the rest of mankind. An exact proportion in the Rep-  
 resentation is not preserved in any one of the States. Will  
 it be said that an inequality of power will not result from an  
 equality of votes. Give the opportunity, and ambition will  
 not fail to abuse it. The whole history of mankind proves  
 it. The three large States have a common interest to bind  
 them together in commerce. But whether combination as  
 we suppose, or a competition as others suppose, shall take  
 place among them, in either case, the smaller States must be  
 ruined. We must make such a Govern<sup>t</sup> <sup>like Solon</sup> as the people will  
 approve. Will the smaller States ever agree to the proposed  
 degradation of them. It is <sup>not true</sup> ["false" stricken out] that the



people will not agree to enlarge the powers of Cong<sup>s</sup> <sup>the present</sup> The Language of the people [<sup>has been</sup> "is" stricken out] that Cong<sup>s</sup> ought to have the power of collecting an impost, and of coercing the States when it may be necessary. <sup>on</sup> The first point they have been explicit & in a manner, unanimous in their declarations. And must they not agree to this & similar measures if they ever mean to discharge their engagements. The little States are willing to [<sup>observe</sup> "discharge" stricken out] their engagements, but will meet the large ones on no ground but that of Confederation. We have been told that this is the last moment <sup>with a dictatorial air</sup> for a fair trial in favor of a good Govern<sup>t</sup>. It will be the last indeed if the propositions reported from the Committee go forth to the people. He was under no apprehensions. The Large States dare not dissolve the confederation. If they do the small ones will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice. He did not mean by this to intimidate or alarm. It was a natural consequence; <sup>which ought to be avoided by Enlarging the federal powers not</sup> ["by" stricken out] annihilating the federal system. This is what the people expect. All agree in the necessity of a more efficient Govt. and why not make such an one; as they desire.

Mr Elseworth,. Under a National Gov<sup>t</sup> he should participate in the National Security, <sup>as remarked by [Mr. King]</sup> but that was all. What he wanted was domestic happiness. The Nat<sup>l</sup> Gov<sup>t</sup> could not ["embrace" stricken out] descend to the local objects on which this depended. It could not embrace objects of a general nature. He turned his eyes therefore for the preservation of his ["happiness" stricken out] rights to the State Gov<sup>ts</sup>. From these alone he could derive the greatest happiness he expects in this life. <sup>His happiness depends on their existence, as much as a new-born infant on its mother for nourishment</sup> If this reasoning was not satisfactory, he had nothing to add that could be so.

Mr King was for preserving the States in a subordinate

degree, and as far as they could be necessary for the purposes stated by M<sup>r</sup> Elseworth. He did not think a full answer had been given to those who apprehended a["n" stricken out] dangerous encroachment on jurisdictions. Expedients might be devised as he conceived that would give them all the security the nature of things would admit of. In the establishment of Societies ["was to" stricken out] the Constitution was to the Legislature what the laws were to individuals. As the fundamental rights of individuals are secured by express provisions in the State Constitutions; why may not a like security be provided for the Rights of States in the National Constitution. ["An Example of such" stricken out] The articles of Union between Engl<sup>d</sup> & Scotland furnish an example of such a provision in favor of sundry rights of Scotland. When that Union was in agitation, the same language of apprehension which has been heard from the smaller States, was in the mouths of the Scotch patriots. The articles however have not been violated and the Scotch have found an increase of prosperity & happiness. He was aware that this will be called a mere paper security. He thought it a sufficient answer to say that if fundamental articles of compact, are no sufficient defence against physical power, neither will there be any safety ag<sup>st</sup> it if there be no compact. He could not sit down, without taking some notice of the language of the honorable gentleman from Delaware [Mr Bedford]. It was not he that had uttered a dictatorial language. This intemperance ["was" stricken out] had marked the honorab<sup>e</sup> gentleman himself. It was not he who ["had" stricken out] with a vehemence unprecedented in that House, had declared himself ready to turn his hopes from our common Country, and court the

protection of some foreign hand—This too was the language of the Hon<sup>ble</sup> member, himself. He was grieved that such a thought had entered into his heart. He was more grieved that such an expression had dropped from his lips. The gentleman c<sup>d</sup>. only excuse it to himself on the score of passion. For himself whatever might be his distress, he w<sup>d</sup>. never court relief from a foreign power.

### Adjourned

### Monday July 2<sup>d</sup> in Convention

On the question for allowing each State one vote in the Second branch as moved by M<sup>r</sup> Elseworth,

Mass<sup>ts</sup> no. <sup>N. Y. ay.</sup> Conf<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del. ay. <sup>Mr. Jenifer being not present</sup> M<sup>d</sup> <sup>Mr. Martin alone voted</sup> ay. [<sup>“div<sup>d</sup>”</sup> stricken out]. <sup>Mr. Baldwin ay</sup> V<sup>a</sup> no. N. C. no. S. C. no. Geo. div<sup>d</sup> <sup>Mr. Houston no</sup>

M<sup>r</sup> Pinkney thought an equality of votes in the 2<sup>d</sup> branch inadmissable. At the same time candor obliged him to admit that the large States would feel a partiality for their own Citizens & give them a preference, in [<sup>“all”</sup> stricken out] appointments: that they might also find some common points in their commercial interests, and promote treaties favorable to them. <sup>There is a real distinction the Northern & South<sup>ern</sup>. interests,</sup> N. Carol<sup>a</sup> S. Carol: & Geo. in their Rice & Indigo had a peculiar interest which might be sacrificed. How then shall the larger States be prevented from administering the Gen<sup>l</sup> Gov<sup>t</sup> as they please, without being themselves nuduly subjected to the will of the smaller? By allowing them some but not a full proportion. He was extremely anxious that something should be done, considering this as the last appeal to a regular experiment. Cong<sup>s</sup> have failed in almost every effort for an amendment of the federal System. Nothing has prevented a dissolution of it, but the appointm<sup>t</sup> of this Convention; & he could not express his alarms for the conse-

to form the States into classes, with an apportionment of Senators [~~to~~ stricken out] among them, quences of such an event. He read his motion [<sup>[see art. 3 of his plan]</sup> "see it Monday June 25]" stricken out].

General Pinkney. [<sup>was willing the motion</sup> "seconded the motion in order that it" stricken out] might be considered. He did not entirely approve it. He liked better the motion of Dr Franklin [which see Saturday June <sup>30</sup>]. Some compromise seemed to be necessary: the States being exactly divided on the question for an equality of votes in the 2<sup>d</sup> branch. He proposed that a Committee consisting of a member from each State should be appointed to devise & report some compromise.

Mr L. Martin had no objection to a Commitment, but no modifications whatever could reconcile the Smaller States to the least diminution of their equal Sovereignty.

Mr Sharman. We are now at a full stop, and nobody he supposed meant that we sh<sup>d</sup> break up without doing something. A Committee he thought most likely to hit on some expedient.

\* he had just returned from N. Y. havg. left ye. Convention a few days after it commenced business. } \* Mr Gov<sup>r</sup> Morris. thought a Com<sup>e</sup> advisable as the Convention had been equally divided. He had a stronger reason also. The mode of appointing the 2<sup>d</sup> branch tended he was sure to defeat the object of it. What is this object? to check the precipitation, changeableness, and excesses of the first branch. Every man of observation had seen ["precipitation" stricken out] in the democratic branches of the State Legislatures, precipitation—in Congress changeableness. in every department excesses ag<sup>st</sup> personal liberty private property & personal safety. What qualities are necessary to constitute a check in this case? Abilities and virtue, are equally necessary in both branches. Something more then is ["no" stricken out]

want["ing" written upon "ed"]. 1. the Checking branch must have a personal interest in checking the other branch. one interest must be opposed to another interest. Vices as they exist, must be turned ag<sup>st</sup> each other. 2. It must have great personal property, it must have the aristocratic spirit; it must love to lord it thro' pride, pride is indeed the great principle that actuates both the poor & the rich. It is this principle which in the former resists, in the latter abuses authority. 3. It should be independent. In Religion the Creature is apt to forget its Creator. <sup>That it is otherwise in</sup> ["In" stricken out] political affairs. The late debates here are an unhappy proof. The aristocratic body, should be as independent & as firm as the democratic. If the members of it are to revert to a dependence on the democratic choice. The democratic scale will preponderate. All the guards contrived by America have not restrained the Senatorial branches of the Legislatures from a servile complaisance to the democratic. If the 2<sup>d</sup> branch is to be dependent we are better without <sup>it</sup>. To make it independent, it should be for life. It will then do wrong, it will be said. He believed so: He hoped so. The Rich will strive to establish their dominion & enslave the rest. They always did. They always will. The [<sup>proper</sup> "only" stricken out] security ag<sup>st</sup> them is to form them into a separate interest. The two forces will then controul each other. Let the rich mix with the poor and in a Commercial Country, they will establish an Oligarchy. Take away commerce, and the democracy will triumph. Thus it has been all the world over. So it will be among us. Reason tells us we are but men: and we are not to expect any particular interference of Heaven in our favor. By thus combining ["the" stricken out] & setting apart, the aristocratic interest, the

popular interest will be combined ag<sup>st</sup> it. There will be a mutual check and mutual security. 4. An independence for life, involves the necessary permanen[“c” written upon “t”]y. If we change our measures no body will trust us: and how avoid a change of measures, but by avoiding a change of men. Ask any man if he confides in Cong<sup>s</sup> if he confides in Pen<sup>a</sup> if he will lend his money [“to” stricken out] or enter into contract? He will tell you no. He sees no stability. He can repose no confidence. If G. B. were to [“answer” stricken out] explain her refusal to treat with us, the same reasoning would be employed.—He disliked the exclusion of the 2<sup>d</sup> branch from holding offices. It is dangerous. It is like the [“the” stricken out] imprudent exclusion of the military officers during the war, from civil appointments. It deprives the Executive of the principal sources of influence. If danger be apprehended from the Executive what a lift-handed way is this of obviating it? If the son, the brother or the friend can be appointed, the danger may be even increased, as the disqualified father &c. can then boast of a disinterestedness which he does not possess. Besides shall the best, the most able, the most virtuous citizens not be permitted to hold offices? Who then are to hold them? He was also ag<sup>st</sup> paying the Senators. They will pay themselves if they can. If they can not they will be rich and can do without it. of such the 2<sup>d</sup> branch ought to consist; and none but such can compose it if they are not to be paid— He contended that the Executive should appoint the Senate & fill up vacancies. This gets rid of the difficulty in the present question. You may begin with any ratio you please; [“the thing” stricken out] it will come to the same thing. The members being independ<sup>t</sup>



& for life, may be taken as well from one place as from another.—It should be considered too how the scheme could be carried through the States. He hoped there was strength of mind eno' in this House to look truth in the face. [“and not to be” stricken out] He did not hesitate therefore to say that loaves & fishes must bribe the Demagogues. They must be made to expect higher offices under the general than the State Gov<sup>ts</sup>. A Senate for life will be a noble bait. Without such captivating prospects, the popular leaders will oppose & defeat the plan. He perceived [“too” stricken out] that the 1<sup>st</sup> branch was to be chosen: <sup>by the people of the States</sup> the 2<sup>d</sup> by those chosen by the people. Is not here a Gov<sup>t</sup> by the States. A Govern<sup>t</sup> by Compact between Virg<sup>a</sup> in the 1<sup>st</sup> & 2<sup>d</sup> branch; Mass<sup>ts</sup> in the 1<sup>st</sup> & 2<sup>d</sup> branch &c. This is going back to mere treaty. It is no Gov<sup>t</sup> at all. [“Even” stricken out] It is altogether dependent—on the States, and will act over again the part which Cong<sup>s</sup> has acted. A firm Govern<sup>t</sup> alone can protect our liberties. He fears the influence of the rich. They will have the same effect here as elsewhere if we do not by such a Gov<sup>t</sup> keep them within their proper sphere. We should remember that the people never act from reason alone. The rich will take advantage of their passions and make these the instruments for oppressing them. The Result of the Contest will be a violent aristocracy, or a more violent despotism. The schemes of the Rich will be favored by the extent of the Country. The people in such distant parts can not communicate & act in concert. They will be the dupes of those who have more Knowledge & <sup>intercourse</sup> [“communication” stricken out]. The only security ag<sup>st</sup> encroachments will be a select & sagacious body of men, instituted to watch ag<sup>st</sup> them on all sides. He meant only

to hint these observations, without grounding any motion on them

M<sup>r</sup> Randolph favored the commitment though he did not expect much benefit from the expedient. He animadverted on the warm & rash language of M<sup>r</sup> Bedford on Saturday; reminded the small States that if the large States should combine there would be a check in the revisionary power of the Executive, and intimated that in order to render this still more effectual, he would agree that in the choice of the Executive each State should have an equal vote. He was persuaded two such opposite bodies as M<sup>r</sup> Morris had planned could never long co-exist. Dissentions would arise as ["between" stricken out] has been seen even between the Senate and H. of Delegates in Maryland, appeals would be made to the people; and in a little time commotions would be the result—He was far from thinking the large States could subsist of themselves any more than the small; an avulsion would involve the whole in ruin, and he was determined to pursue such a scheme of Government as would secure us ag<sup>st</sup> such a calamity.

M<sup>r</sup> Strong was for the Commitment; and hoped the mode of constituting both branches would be referred. If they should be established on different principles, contentions would prevail and there would never be a concurrence in necessary measures.

Doc<sup>r</sup> Williamson. If we do not concede on both sides, our business must soon be at an end. He approved of the commitment, supposing that as the Com<sup>e</sup> w<sup>d</sup> be a smaller body, a compromise would be pursued with more coolness

M<sup>r</sup> Wilson objected to the Committee, it would decide according to that very rule of voting which was opposed on

one side. Experience in Cong<sup>s</sup> had also proved the inutility  
consisting of members from each State  
 of Committees

Mr. Lansing wd. not oppose the Commitment, though expecting little advantage from it.

adison Mr M opposed the com̄itment. He had rarely any other  
 effect than delay from ["the" stricken out] such Committees  
 in Cong<sup>s</sup>. Any scheme of compromise that could be proposed  
 in the Committee might as easily be proposed in the House;  
 and the ["decision" report stricken out] of the Committee when it  
 contained merely the opinion of the Com<sup>e</sup> would neither  
 shorten the discussion, nor influence the decision of the  
 House.

Mr Gerry was for the commitm<sup>t</sup>. Something must be done,  
 or we shall disappoint not only America, but the whole world.  
 He suggested a consideration of the State we should be thrown  
 into by the failure of the Union. We should be without an  
 Umpire to decide controversies and must be at the mercy of  
 events. What too is to become of our treaties—what of our  
 foreign debts, what of our domestic? We must make conces-  
 sions on both sides. Without these the constitutions of the  
 several States would never have been formed.

On the question "for com̄iting" generally ["to a member from each  
 State" stricken out]

Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. ay. N. J. no. P. ay. Del. no. M<sup>d</sup> ay.  
 V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

On the question for com̄iting "to a member from each  
 State"

Mass<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup>  
 ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo—ay.

The Com̄ittee elected by ballot, were Mr Gerry, Mr Else-  
 worth, Mr Yates, Mr Patterson. Dr Franklin, Mr Bedford, Mr  
 Martin, Mr Mason, Mr Davy. Mr Rutledge, Mr Baldwin.

That time might be given to the Comittee, and to such as

chose to attend to the celebration on the anniversary of Independence, the Convention adjourned till Thursday.

Thursday July 5<sup>th</sup> in Convention

Mr Gerry delivered in from the Committee appointed on Monday last the following Report.

"The Committee to whom was referred the 8<sup>th</sup> Resol. of the Report from the Committee of the whole House, and so much of the 7<sup>th</sup> as has not been decided on submit the following Report: That the subsequent propositions be recommended to the Convention on condition that both shall be generally adopted. I. that in the 1<sup>st</sup> branch of the Legislature each of the States now in the Union shall be allowed 1 member for every 40,000 inhabitants of the description reported in the 7<sup>th</sup> Resolution of the Com<sup>e</sup> of the whole House: that each State not containing that number shall be allowed 1 member: that all bills for raising or appropriating money, and for fixing the Salaries of the Officers of the ["Gen<sup>l</sup>" stricken out] Govern<sup>t</sup> of the U. States shall originate in the 1<sup>st</sup> branch of the Legislature, and shall not be altered or amended by the 2<sup>d</sup> branch: and that no money shall be drawn from the public Treasury, but in pursuance of appropriations to be originated in the 1<sup>st</sup> branch" II. that in the 2<sup>d</sup> branch each State shall have an equal vote"\*

\*This report was founded on a motion in the Committee made by Dr. Franklin. It was barely acquiesced in <sup>by</sup> the members from the States opposed to an equality of votes in the 2<sup>d</sup> branch, and was evidently considered by the ["other" stricken out] members on the other side, as a gaining of their point. A motion was made by Mr. Sherman\* in the Committee to the following effect "that each State should have an equal vote in the 2<sup>d</sup> branch; provided that no decision therein should prevail unless ["the" stricken out] made by a majority of the States, unless there should be at the same time a majority of the States in the affirmative a the" stricken out] the majority of States concurring should also comprize a majority of the inhabitants of the U. States". This motion was not much deliberated on ["in the" stricken out] nor approved in the Committee. A similar proviso had been proposed in the debates on the articles of Confederation in 1777. to the articles giving certain powers to "nine States." See Journals of Cong<sup>s</sup>. for 1777. p. 462.

Mr Ghorum observed that as the report consisted of propositions mutually conditional he wished to hear some explanations touching the grounds on which the conditions were estimated.

Mr Gerry. The Committee were of different opinions as well as the Deputations from which the Com<sup>e</sup> were taken, and agreed to the Report merely in order that some ground of accommodation might be proposed. Those opposed to the equality of votes have only ["agreed" stricken out] assented ["on" stricken out] condition["ly" stricken out]ally; and if the other side do not generally agree will not be under any obligation to support the Report. | Mr. Wilson. thought the Committee had exceeded their powers.

Mr. Martin was for taking the question on the whole report.

Mr. Wilson was for a division of the question: otherwise it wd. be a leap in the dark.

Mr-Madison. could not regard the privilege of originating money bills as any concession on the side of the small States. Experience proved that it had no effect. If seven States in the upper branch wished a bill to be originated, they might surely <sup>find</sup> some member from some of the same States in the lower branch who would originate it. The restriction as to amendments was of as little consequence. Amendments could be handed privately by the Senate to members in the ["lower" stricken out] other house. Bills could be negatived that they might be sent up in the desired shape. If the Senate should yield to the obstinacy of the 1<sup>st</sup> branch the use of that body as a check would be lost. If the 1<sup>st</sup> branch should yield to that of the Senate, the privilege would be nugatory. Experience had also shewn both in G. B. and the States having a similar regulation that it was a source of frequent & ["obstin", <sup>obstinate</sup> illegible word stricken out] altercations. These considerations had produced a ["former" stricken out] rejection

of ["the" stricken out] a like motion on a former occasion when judged by its own merits. It could not therefore be deemed any concession on the present, and left in force all the objections which had prevailed ag<sup>st</sup> allowing each State an equal voice. He conceived that the Convention was reduced to the ["<sup>alternative</sup>delusion" stricken out] of either departing from justice in order to ["please" stricken out] conciliate the smaller States, and the minority of the people of the U. S. or of displeasing these by ["doing justice to them by" stricken out] <sup>justly</sup> gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make. The Convention with justice & the majority of the people on their side, had nothing to fear. With injustice and the minority on their side they had every thing to fear. It was in vain to purchase concord in the Convention on terms which would perpetuate discord among their Constituents. The Convention ought to pursue a plan which would bear the test of examination, which would be espoused & supported by the enlightened and impartial part of America, & which they could themselves vindicate & urge. It should be considered that altho' at first many ["would" stricken out] may judge of the system recommended, by their opinion of the Convention, yet finally all will judge of the Convention by the system. The merits of the system alone can finally & effectually obtain the public suffrage. He was not apprehensive that the small States would obstinately refuse to accede to a Gov<sup>t</sup> founded on just principles, and promising them substantial ["<sup>protection</sup>justice" stricken out]. He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other States, rather tha["n" written upon "t"] submit to such a Gov<sup>t</sup>:



much less ["that" stricken out] could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives[ Mr Bedford] had suggested, or if she sh<sup>d</sup> that any foreign nation w<sup>d</sup> be so rash as to hearken to the overture. As little could he suspect that the people of N. Jersey notwithstanding the decided tone of the gentlemen from that State, would choose rather to stand on their own legs, and bid defiance to ["all consequen" stricken out] events, tha["n" written upon "t"] to acquiesce under an establishment founded on principles the justice <sup>of which</sup> they could not dispute, and ["calculated to" stricken out] absolutely necessary to redeem them from the exactions levied on them by the commerce of the neighbouring States. A review of other States would prove that there was as little <sup>reason</sup> to apprehend an inflexible opposition [<sup>elsewhere</sup> "from them" stricken out]. Harmony in the Convention was no doubt much to be desired. Satisfaction to all the States, in the first instance still more so. But if the principal States comprehending a majority of the people of the U. S. should concur in a just & judicious plan, he had ["full" stricken out] the firmest hopes <sup>that</sup> all the other States would by degrees accede to it. ["These observations w<sup>d</sup> show that he was not only fixed in his opposition to the Report of the Com<sup>tee</sup>. but was prepared for any want that might follow a negative of its" stricken out]

Mr Butler said he could not let down his idea of the people of America so far as to believe they, would from mere respect to the Convention adopt a plan evidently unjust. He did <sup>consider</sup> not the privilege concerning money bills as of any consequence. He urged that the 2<sup>d</sup> branch ought to represent the States according to their property.

Mr Gov<sup>r</sup> Morris. thought the form as well as the matter of the Report objectionable. It seemed in the first place to render amendments impracticable, ["and to require an adoption or negation in the lump" stricken out]. In the next place, it seemed to involve a pledge to agree to the 2<sup>d</sup> part if the 1<sup>st</sup> sh<sup>d</sup> be agreed to. He conceived the whole aspect of it to be wrong. He came here as the Representative of America; he flattered himself he came here in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of places from which they derive their political origin. If he were to ["to" stricken out] believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular <sup>States</sup>. He can—not descend to think that any gentlemen ["t" effaced] are really actuated by these views. We must look forward to the effects of what we do. These alone ["are" stricken out] <sup>ought to</sup> guide us. Much has been said ["of the sentiments" stricken out] of the sentiments of the people. They were unknown. They could not be known. All that we can infer is that if the plan we recommend be reasonable & right; all who have reasonable minds and sound intentions will embrace it, ["He did not like the <sup>notwithstanding what had</sup> <sup>been said by</sup> desponding language But we should never agree, that the States will, unite in" stricken out] some Gentlemen. Let us suppose that the larger States shall agree; and that the smaller refuse; and let us trace the consequences. The opponents of the system in the smaller States will no doubt make a party, and a noise for some time, ["and" stricken out] but the ties of interest, of kindred & of common

habits which connect them with the other States will be too strong to be easily broken. In N. Jersey particularly he was a great many would follow the sentiments of Pen<sup>a</sup> & N. York. This Country must be united. If persuasion does not, the sword will. He begged that this consideration might have its due weight. The scenes of horror attending civil commotion can not be described, and the conclusion of them will be worse <sup>than</sup> the term of their continuance. The stronger party will then make traytors of the weaker; and the Gallows & Halter will finish the work of the sword.

[<sup>["that" stricken out]</sup> How far foreign powers would be] stricken out] ready to take part in the confusions. [<sup>he would not say</sup> "they" stricken out] Threats that they will be invited have it seems been He drew the melancholy picture of foreign intrusions as exhibited in the History of Germany, thrown out. He trusted that the Gentlemen who may have

<sup>^ urged it as</sup> and [<sup>as</sup> stricken out] a standing lesson to other nations hazarded such expressions, did not entertain them till they reached their own lips. But returning to the Report he could not think it in any respect calculated for the public good. As the 2<sup>d</sup> branch is now constituted, there will be constant disputes & appeals to the States which will under-<sup>& controul & annihilate the 1<sup>st</sup> branch</sup> mine the Gen<sup>l</sup> Government. Suppose that the Delegates from Mass<sup>ts</sup> & Rho I. in the upper House disagree, and that the former are outvoted. What Results? only they will immediately declare that their State will not abide by the decision, and make such representations as will produce that effect—The same may happen as to Virg<sup>a</sup> & other States. Of what avail then will be what is on paper. State attachments, and State importance have been the bane of this Country. We cannot annihilate [<sup>the States</sup> stricken out]; but we may perhaps take out the teeth of the serpents. He wished our ideas to be enlarged to the true interest of man,

instead of being circumscribed within the narrow compass of a particular Spot. And after all how little ["reason" stricken out] can be the motive yielded by selfishness for such a policy. Who can <sup>say</sup> whether he himself, much less whether his children, will the next year be an inhabitant of this or that State.

M<sup>r</sup> Bedford. He found that what he had said as to the small States being taken by the hand, had been misunderstood; and he rose to explain. He did not mean that the small States would court the aid & interposition of foreign powers. He meant that ["the" stricken out] they would not consider the federal compact as dissolved untill it should be so by the acts of the large States. In this case <sup>the consequence of</sup> the breach of faith on their part, and the readiness of the small States to fulfill their engagements, would be that foreign nations having demands ["on" written upon "of"] this Country would find it, to their interest to take the small States by the hand, in order to do themselves justice. This was what he meant. But no man can foresee to what extremities the small States may be driven by oppression. He observed also in apology that some allowance ought to be made for the habits of his profession in which warmth was natural & sometimes necessary. But is there not an apology in what was said by [M<sup>r</sup> Gov<sup>r</sup> Morris] that the sword is to unite: by M<sup>r</sup> Ghorum that Delaware must be annexed to Penn<sup>a</sup> and N. Jersey divided between Pen<sup>a</sup> and N. York. To hear such language without emotion, would be to renounce the feelings of a man and the duty of a citizen—As to the propositions of the Committee, the lesser States have thought it necessary to have a security somewhere. This has been thought necessary for the Executive ["Gov<sup>t</sup>" stricken out], <sup>Magistrate</sup> of the proposed Gov<sup>t</sup> who has a

sort of negative on the laws; and is it not of more importance that the States should be protected, than that the Executive branch of the Gov<sup>t</sup> sh<sup>d</sup> be protected. In order to obtain this, the smaller <sup>States</sup> have conceded as to the <sup>constitution of the</sup> first branch, and as to money bills. If they be not gratified by correspondent concessions as to the 2<sup>d</sup> branch is it to be supposed they will ever accede to the plan; and what will be the consequence if nothing should be done! The condition of the U. States requires that something should be immediately done. It will be better that a defective plan should be adopted, than that none should be recommended. He saw no reason why the defects might not be supplied by meetings 10, 15 or 20 years hence.

M<sup>r</sup> Elseworth said he had not attended the proceedings of the Committee, but was ready to accede to the compromise they had reported. Some compromise was necessary; and he saw none <sup>more</sup> convenient or reasonable.

M<sup>r</sup> Williamson hoped that the expressions of individuals would not be taken for the sense of their colleagues, much less of their States which was not & could not be known. He hoped also that <sup>the</sup> meaning of those expressions would not be misconstrued or exaggerated. He did not conceive that ["the expressions of" stricken out] [M<sup>r</sup> Gov<sup>r</sup> Morris] meant that the sword ought to be drawn ag<sup>st</sup> the smaller States. He only pointed out the probable consequences of anarchy in the U. S. A similar exposition ought to be given of the expressions [of M<sup>r</sup> Ghorum]. He was ready to hear the Report discussed; but thought the propositions contained in it, the most objectionable of any he had yet heard.

M<sup>r</sup> Patterson said that he had when the Report was agreed to in the Com<sup>e</sup> reserved to himself the right of freely dis-

cussing it. He acknowledged that <sup>the</sup> warmth complained of was improper; but he thought the Sword & the Gallows as little calculated to produce conviction. He complained of the manner in which M<sup>r</sup> M— & M<sup>r</sup> Gov<sup>r</sup> Morris had treated the small States.

M<sup>r</sup> Gerry. Tho' he had assented to the Report in the Committee, he had very material objections to it. We were however in a peculiar situation. We were neither the same Nation nor different Nations. We ought not therefore to pursue the one or the other ideas too closely. If no compromise should take place what will be the consequence. A secession he foresaw would take place; for some gentlemen [<sup>seem</sup> "seem" stricken out] decided on it; two different plans will be proposed, and the result no man could foresee. If we do not come to some agreement among ourselves some foreign sword will probably do the work for us.

M<sup>r</sup> Mason. The Report was meant not as specific propositions to be adopted but merely as a general ground of accomodation. There must be some accomodation on this point, or we shall make little further progress in the work. Accomodation was the object of the ["app" stricken out] House in the appointment of the Committee; and of the Committee in the Report they have made. And however liable the Report might be to objections, he though it preferable to an appeal to the world by the different sides, as had been talked of by some Gentlemen. It could not <sup>be</sup> more inconvenient to any gentleman to remain absent from his private affairs, than it was for him: but he would bury his bones in this city rather than expose his Country to the Consequences of a dissolution of the Convention without any thing being done.



The 1<sup>st</sup> proposition in the Report <sup>for</sup> fixing <sup>for</sup> the representation in the 1<sup>st</sup> branch, [<sup>one</sup> "1" stricken out] member for every 40,000 inhabitants, [<sup>being</sup> "was read" stricken out] taken up. [<sup>being</sup> "particularly" stricken out]

Mr Gov<sup>r</sup> Morris objected to that scale of apportionment. He thought property ought to be taken into the estimate as well as the number of inhabitants. Life and liberty were generally said to be of more value, than property. An accurate view of the matter would nevertheless prove that property was the main object of Society. The savage State was more favorable to liberty than the Civilized; and sufficiently so to life. It was preferred by all men who had not acquired a taste for property; it was only renounced for [<sup>being</sup> "that security" stricken out] the sake of property which could only be secured by the restraints of regular Government. These ideas may appear to some new, but they were nevertheless just. If property then was the main [<sup>being</sup> "of" stricken out] object of Gov<sup>t</sup> certainly it ought to be one measure of the influence due to those who were to be affected by the Government. He looked forward also to that range of New States which w<sup>d</sup> soon be formed [<sup>in</sup> "to" stricken out] the west. He thought the rule of representation ought to be so fixed as to secure to the Atlantic States [<sup>being</sup> "their" stricken out] a prevalence in the National Councils. The new States will know less of the public interest than these, will have an interest in many respects different, in particular will be little scrupulous of involving the Community in wars the <sup>& operations of</sup> burdens which would fall chiefly on the maritime States. Provision ought therefore to be made to prevent the [<sup>being</sup> "se" stricken out] maritime States from being hereafter outvoted by them. He thought this might be easily done by irrevocably fixing the

number of representatives which the Atlantic States should respectively have, and the number which each new State will have. This w<sup>d</sup> not be unjust, as [<sup>d</sup> stricken out] the western settlers w<sup>d</sup> previously know the conditions on which they were to possess their lands. It would be politic as it would recomēnd the place to the present as well as future interest of the States which must decide the fate of it.

M<sup>r</sup> Rutlidge. The gentleman last up had spoken <sup>some or</sup> his sentiments precisely. Property was certainly the principal object of Society. If numbers should be made the ["rule of

[Over the words here stricken out, a slip of paper was pasted, upon which the words from "rule" to "Massachs. &c.—", both included, were written.]

Representation, the Atlantic States will be subjected to the Western. He moved "× that the representation in the first branch be proportioned to the ['payments' stricken out] money collected in the States respectively, giving to the smallest State one member, and that the ratio be revised from time to time." " stricken out]

rule of representation, the Atlantic States will be subjected to the Western. He moved × that the first proposition in the report be postponed in order to take up the following viz. "that the suffrages of the several States be regulated and proportioned according to the sums to be paid ["according" stricken out] towards the general revenue by the inhabitants of each State respectively; that an apportionment of suffrages, according to the ratio aforesaid shall be made and regulated at the end of        years from the 1<sup>st</sup>. meeting of the Legislature of the U. S. and at the end of every        years but that for the present, and until the period above mentioned, the suffrages shall be for N. Hampshire        Massachs.        &c—

was  
was

Col. Mason said the case of new States not unnoticed in the Committee; but it was thought and he was himself decidedly of opinion that if they made a part of the Union, they ought to be subject to no unfavorable discriminations. Obvious considerations required it.

M<sup>r</sup> Radolph concurred with Col. Mason.

On question on M<sup>r</sup> Rutlidges motion. ×

Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no. N. J. no. Pa<sup>a</sup> no. Del. no. Mary<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. not on floor

adj<sup>d</sup>

Friday July 6<sup>th</sup> in Convention

M<sup>r</sup> Gov<sup>r</sup> Morris moved to commit so much of the Report as relates to "1 member for every 40,000 inhabitants" His view was that they might ["at once" stricken out] <sup>absolutely</sup> fix the number for each State in the first instance; leaving the Legislature at liberty to provide for changes in the relative importance of the States, and for the case of new States.

M<sup>r</sup> Wilson 2<sup>d</sup> the motion; but with a view of leaving the Committee under no implied shackles.

M<sup>r</sup> Ghorum apprehended great inconveniency from fixing directly the number of Representatives to be allowed to each State. He thought the number of Inhabitants the true <sup>guide</sup> <sup>^</sup> ["rule of proportion" stricken out]; tho' perhaps some departure might be expedient from the full proportion. The States also would vary in their relative <sup>extent</sup> ["size" stricken out], by separations of parts of the largest States. A part of Virg<sup>a</sup> is now on the point of separation. In the province of Mayne a Convention is at this time deliberating on a separation from Mas<sup>ts</sup>. In such <sup>events</sup> ["case" stricken out], the number of representatives ought certainly to be reduced. He hoped to see all the States made small by proper divisions, instead of their becoming formidable as was apprehended, to the Small States. He conceived that let the Gen<sup>l</sup> Government be modified as it might, there would be a constant tendency in the State Govern<sup>ts</sup> to encroach upon it: it was of importance therefore that the extent of the <sup>States</sup> ["Govern" stricken out] sh<sup>d</sup> be reduced as much & as fast as possible. The stronger the Gov<sup>t</sup> shall be made <sup>in the first instance</sup>, the more easily will these divisions be effected; as it will be of less consequence in the opinion of the States whether they be of great or small extent.

M<sup>r</sup> Gerry did not think with his Colleague that the large

States ought to be cut up. This policy has been ["pursued" stricken out] <sup>inculcated</sup> by the middling and smaller States, ungenerously & contrary to the spirit of the Confederation. Ambitious men will be apt to solicit needless divisions, till the States be reduced to the size of Counties. If this policy should still actuate the small States, the large ones cou'd <sup>not</sup> confederate safely with them; but would be obliged to consult their safety ["only" stricken out] by confederating only with one another. He favored the Commitment and thought the Representation ought to be in the Combined ratio of numbers of Inhabitants and of wealth, and not of either singly.

Mr King wished the clause to be committed chiefly <sup>in order</sup> to detach it from the Report with which it had no connection. He thought also that the Ratio of Representation proposed could not be safely fixed, since in a century & a half our computed increase of population would carry the number of representatives to an enormous excess; that y<sup>e</sup> number of inhabitants was not the proper index of ability & wealth; that property was the primary object of Society; and that in fixing a ratio this ought not to be excluded from the estimate. With regard to ["the" stricken out] New States, he observed that there was something peculiar in the business which had not been noticed. The U. S. were now admitted to be proprietors of the Country, N. West of the Ohio. Cong<sup>s</sup> by one of their ordinances have impolitically laid it out into ten States, and have made it a fundamental article of compact with those who may become settlers, that as soon as the number in any one State shall equal that of the smallest of the 13 original States, it may claim admission into the Union. Delaware does not contain it is computed more than 35,000 souls, and <sup>for</sup> obvious reasons will not increase much, a considerable

time. It is possible then that <sup>if this plan be persisted in by Cong<sup>s</sup>.</sup> 10 new votes may be added, without a greater addition of inhabitants than are represented by the single vote of Pen<sup>a</sup>. The plan as it respects one of the new States is already irrevocable, the sale of the lands having commenced, and the purchasers & settlers will immediately become entitled to all the privileges of the compact.

Mr Butler agreed to the Commitment if ["the" stricken out] the Committee were to be left at liberty. He was persuaded that the more the subject was examined, the less it would appear that the number of inhabitants would be a proper rule of proportion. If there were no other objection the changeableness of the standard would be sufficient. He concurred with those who thought some balance was necessary between the old & ["the" stricken out] New States. He contended strenuously that property was the only just measure of representation. This was the great object of Govern<sup>t</sup>: the great cause of war, the great means of carrying it on.

Mr Pinkney saw no good reason for committing. The value of land had been found on full investigation to be an impracticable rule. The contributions of revenue including imports & exports, must be too changeable in their amount; too difficult to be adjusted; and too injurious to the no["n" written upon "t"]-commercial States. The number of inhabitants appeared to him the only just & practicable rule. He thought the blacks ought to stand on an equality with t whites: But w<sup>d</sup>-agree to the ratio settled by Cong<sup>s</sup>. He contended that Cong<sup>s</sup> had no right under the articles of Confederation to authorize the admission of new States; no such case having been provided for.

Mr Davy, was for committing the clause in order to get at

the merits of the question arising on the Report. He seemed to think that wealth or property ought to be represented in the 2<sup>d</sup> branch; and numbers in the 1<sup>st</sup> branch.

On the motion for committing as made by M<sup>r</sup> Gov<sup>r</sup> Morris.

Mas<sup>ts</sup> ay— Con<sup>t</sup> ay. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

The members app<sup>d</sup> by Ballot were [“M<sup>r</sup> Ghorum” stricken out], M<sup>r</sup> Gov<sup>r</sup> Morris, <sup>Mr. Gorham.</sup> M<sup>r</sup> Randolph, M<sup>r</sup> Rutledge, M<sup>r</sup> King.

M<sup>r</sup> Wilson signified that his view in agreeing to the Comitm<sup>t</sup> was that the Com<sup>e</sup> might consider the propriety of adopting a scale similar to that established by the Constitution of Mas<sup>s</sup> which <sup>w<sup>d</sup></sup> give an advantage to y<sup>e</sup> small States without substantially departing from a rule of proportion.

M<sup>r</sup> Wilson & M<sup>r</sup> Mason moved to postpone[“d” stricken out] the clause relating to money bills in order to take up the clause relating to an equality of votes in the second branch.

On the question Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. ay. Geo. ay.

The clause relating to equality of votes being under consideration,

Doc<sup>r</sup> Franklin observed that this question could not be properly put <sup>by itself</sup>, the Com<sup>tee</sup> having reported several propositions as mutual conditions of each other. He could not vote for it if separately taken, but should vote for the whole together.

Col. Mason perceived the difficulty & suggested [“that” stricken out] a reference of the [<sup>rest of the Report to</sup> “article to the” stricken out] y<sup>e</sup> Committee just appointed, that the whole might be brought into one view.

M<sup>r</sup> Randolph disliked y<sup>e</sup> reference to that Committee, as it



consisted of members from States opposed to the wishes of the smaller States, and could not therefore be acceptable to the latter.

Mr Martin & Mr Jenifer moved to postpone["d" stricken out] the clause till the Com<sup>e</sup> last appointed should report.

Mr Madison observed that if the uncommitted part of the Report was connected with the part just committed, it ought also, to be committed; if not connected, it need not be postponed till report should be made.

for postponing moved by Mr. Martin & Mr. Jennifer  
On the question, ["there were 6 ays. 3 nos 2 div<sup>d</sup>" stricken out]  

Cont. N. J. Del. Md. Va. Geo., ay
Pa. N. C. S. C. ....no
Mas. N. Y. ....divided

The. 1<sup>st</sup> clause relating to the originating of money bills was then resumed.

Mr Governor Morris was opposed to a restriction of this right ["to" stricken out]<sup>in</sup> either branch, considered merely in itself and as unconnected with the ["one" stricken out] point of representation in the 2<sup>d</sup> branch. It will disable the 2<sup>d</sup> branch from proposing its own money plans, and giving the people an opportunity of judging by comparison of the merits of those proposed by the 1<sup>st</sup> branch.

Mr Wilson could see nothing like a concession here on the part of the smaller States. If both branches were to say yes or no, it was of little <sup>consequence</sup> which should say yes or no first, which last. If either was indiscriminately to have the right of originating, the reverse of the Report. would he thought be most proper; since <sup>it was a maxim that</sup> the least numerous body ["would" stricken out] was the fittest for deliberation; the most <sup>in</sup> numerous for decision. He observed that this discrimination had been transcribed from the British into several American constitutions. But he was persuaded that ["the an" stricken

out]<sup>on</sup> examination of the American experiment, it would ["t"<sup>be found</sup> stricken out] to be a trifle light as<sup>air</sup>. Nor could he ever discover the advantage of it in the ["British" stricken out] parliamentary history of G. Britain. He hoped if there was any advantage in the privilege, that it would be pointed out.

Mr Williamson thought that if the privilege were not common to both branches it<sup>["ought" written upon "shd"]</sup> rather to be confined to the 2<sup>d</sup> as the bills in that case would be more narrowly watched, than if they originated with the ["popu" stricken out] branch having most of the popular confidence.

Mr Mason. The consideration which weighed with the Committee was that the 1<sup>st</sup> branch would be the ["rep" stricken out] immediate representatives of the people, the 2<sup>d</sup> would not. Should the latter have the power of giving away the peoples money, they might soon forget the Source from whence they received it. We might soon have an aristocracy. He had been much concerned at principles which had been advanced by some gentlemen, but had the satisfaction to find they did not generally prevail. He was a friend to proportional representation in both branches; but supposed that some points must be yielded for the sake of accomodation.

Mr Wilson. If he had proposed that the 2<sup>d</sup> branch should have an independent disposal of public money, the observations of [Col. Mason] would have been a satisfactory answer. But nothing could be farther from what he had said. His question was how is the power of the ["1<sup>st</sup>" written upon '2<sup>d</sup>'] branch increased or ["dim" stricken out] that of the 2<sup>d</sup> diminished by giving the proposed privilege to the former? Where is the difference, in which branch it begins if both must concur, in the end?

Mr Gerry would not say that the concession was a sufficient

one on the part of the small States. But he could not <sup>but</sup> regard it in the light of a concession. It w<sup>d</sup> make it a constitutional principle that the 2<sup>d</sup> branch were not possessed of the Confidence of the people in money matters, which w<sup>d</sup> lessen their weight & influence. In the next place if the 2<sup>d</sup> branch were dispossessed of the privilege, they w<sup>d</sup> be deprived of the opportunity which their continuance in office 3 times as long as the 1<sup>st</sup> branch would give them of make<sup>g</sup> three successive essays in favor of a particular point.

Mr Pinkney thought it evident that the Concession was wholly on one side, that of the large States, the privilege of originating money bills being of no account.

Mr Gov<sup>r</sup> Morris had waited to hear the good effects of the restriction. As to the alarm [illegible word stricken out] sounded, of an aristocracy, his creed was that there never was, nor ever will be a civilized Society ["in which" stricken out] without an Aristocracy. His endeavor was to keep it as much as possible from doing mischief. The <sup>will deprive us of the services of the 2<sup>d</sup> branch in digesting and proposing money bills</sup> restriction if it has any real operation, will take away the <sup>of which it will be more capable than the 1<sup>st</sup> branch</sup> It responsibility of the 2<sup>d</sup> branch, the great security for good behavior. It will always leave a plea ["that the money <sup>as to an obnoxious money bill that it was</sup> bill that it was" stricken out] disliked, but could not be ["amended by the" stricken out] constitutionally amended; nor safely rejected. It will be a dangerous source of disputes between the two Houses. We should either take the British Constitution altogether or make one for ourselves. The Executive <sup>there</sup> has dissolved two Houses as the only cure for such disputes. Will our Executive be able to apply such a remedy? Every ["thing" <sup>law</sup> stricken out] directly or indirectly takes money out of the pockets of the people. Again what use may be [illegible words <sup>made</sup> stricken out] of such a

privilege in case of great emergency? Suppose an enemy at the door, and money instantly & absolutely necessary for repelling him, may not the popular branch avail itself of this duress, to extort concessions from the Senate destructive of the Constitution itself. He illustrated this danger by the example of the Long Parliament's exped<sup>ts</sup> for subverting the H. of Lords: concluding on the whole that the restriction would be either useless or pernicious.

Doc<sup>r</sup> Franklin did not mean to go into a justification of the Report; but as it had been asked what would be the use of restraining the 2<sup>d</sup> branch from meddling with money bills, he could not but remark that it was always of importance that the people should know who had disposed of their money, & how it had been disposed of. It was a maxim that those who feel, can but judge. This end would, he thought, be best attained, if money affairs were to be confined to the immediate representatives of the people. This was his inducement to concur in the report. As to the danger or difficulty that might arise from a negative in the 2<sup>d</sup> where the people w<sup>d</sup> not be proportionally represented, it might easily be got over by declaring that there should be no such Negative: or if that will not do, by declaring that there shall be no such branch at all.

M<sup>r</sup> Martin said that it was understood in the Committee that the difficulties and disputes which had been apprehended, should be guarded ag<sup>st</sup> in the detailing of the plan.

M<sup>r</sup> Wilson. The difficulties <sup>& disputes</sup> will increase with the attempts to define & obviate them. Queen Anne was obliged to dissolve her Parliam<sup>t</sup> in order to terminate one of these obstinate disputes between the two Houses. Had it not been for the mediation of the Crown, no one can say what the result

would have been. The point is still sub judice in England. He approved of the principles laid down by the Hon<sup>ble</sup> <sup>[Doct. Franklin]</sup> President his Colleague, as to the expediency of keeping the people informed of their money affairs. But thought they would know as much, and be as well satisfied, in one way as in the other.

Gen<sup>l</sup> Pinkney ["concurd" stricken out] was astonished that this point should have been considered as a concession. He remarked that the restriction ["as" erased] to money bills had been rejected ["by" stricken out] on the merits singly considered, by 8 States ag<sup>st</sup> 3, and that the very States which now called it a concession, were then ag<sup>st</sup> it as nugatory or improper in itself.

On the question whether the clause <sup>relating to money bills</sup> in the Report of the Com<sup>e</sup> consisting of a member from each State, ["shall" stricken out] sh<sup>d</sup> stand as part of the Report—

Mass<sup>ts</sup> divid<sup>d</sup> Con<sup>t</sup> ay. N. Y. div<sup>d</sup> N. J. ay. Pa<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. ay. S. C. no. Geo. div<sup>d</sup>

A question was then raised whether the question was carried in the affirmative ["or not" stricken out]: there being but 5 ays out of 11 States present. The words of the rule are" (see May 28)

On the question: Mas. Con<sup>t</sup>. N. J. Pa<sup>a</sup>. Del. M<sup>d</sup>. N. C. S. C. Geo. . . . . ay  
N. Y. V<sup>a</sup>. . . . . no

[In several preceding instances like votes had sub silentio been entered as decided in the affirmative.] ["and a like entry was made" illegible word stricken out]

Adjourned

Saturday, July 7. in Convention

[“On the question whether the question depending <sup>yesterday</sup> at the time of adjournment sh<sup>d</sup> be entered in the affirmative, Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. N. J. ay. Pa<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. Va<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.” stricken out].

“Shall the clause allowing each State one vote in the 2<sup>d</sup> branch, stand as part of the Report”? <sup>being taken up—</sup>

M<sup>r</sup> Gerry. This is the critical question. He had rather agree to it than have no accomodation. A Govern<sup>t</sup> short of a proper national plan if generally acceptable, would be preferable to a proper one which if it could be carried at all, would operate on discontented States. He thought it would be best to suspend the question till the Comm<sup>e</sup> yesterday appointed, should make report.

M<sup>r</sup> Sherman Supposed that it was the wish of every one that some Gen<sup>t</sup> Gov<sup>t</sup> should be established. An equal vote in the 2<sup>d</sup> <sup>branch</sup> would, he thought, be most likely to give it the necessary vigor. The small States have more vigor in their Gov<sup>ts</sup> than the large ones, the more influence therefore the large ones have, the weaker will be the Gov<sup>t</sup>. In the large States it will be most difficult to collect the real & fair sense of the people. Fallacy & undue influence will be practiced with most success: and improper men will most easily get into office. If they vote by States in the 2<sup>d</sup> branch, and each State has an equal vote, there must be always a majority of States as well as a majority of the people on the side of public measures, & the Gov<sup>t</sup> will have decision and efficacy. If this be [“not” stricken out] not the case in the 2<sup>d</sup> branch there may be a majority of the States ag<sup>st</sup> public measures, and the difficulty of compelling them to abide by the public determination, will render the Government feebler than it has ever yet been.



Mr Wilson was not deficient in a conciliating temper, but firmness was sometimes a duty of higher obligation. Conciliation was also [~~"mistaken"~~ stricken out] misapplied in this instance. It was pursued here rather among the Representatives, than among the Constituents; and it w<sup>d</sup> be of little consequence, if not established among the latter; and there could be little hope of its being established among them if the foundation should not be laid in justice and right.

On Question shall the words stand as part of the Report?

Mass<sup>ts</sup> div<sup>d</sup> Cont<sup>t</sup> ay. N. Y. ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. ay. S. C. no. Geo. div<sup>d</sup>

[Note. several votes were given here in the affirmative <sup>or were div<sup>d</sup>.</sup>  
<sup>because another final</sup> [~~"because the question"~~ stricken out] question was to be taken on the whole report.]

Mr Gerry thought it would be proper to proceed to enumerate & define the powers to be vested in the Gen<sup>l</sup> Gov<sup>t</sup> before a question <sup>on the report</sup> should be taken <sup>as to</sup> [~~"on"~~ stricken out] the rule of representation in the 2<sup>d</sup> branch.

Mr Madison, observed that it w<sup>d</sup> <sup>be</sup> impossible to say what powers could be safely & properly vested in the Gov<sup>t</sup> before it was known, <sup>in</sup> what [~~"influence"~~ stricken out] manner the States were to be represented in it. He was apprehensive that if a just representation were not the basis of the Gov<sup>t</sup> [~~"the States would,"~~ illegible words stricken out] it would happen, as it did [~~"not"~~ stricken out] when <sup>the</sup> articles of Confederation were depending, that every effectual prerogative would <sup>be</sup> withdrawn or withheld, and the New Gov<sup>t</sup> w<sup>d</sup> be rendered as impotent and as short lived as the old.

Mr Patterson would not decide whether the privilege concerning money bills were a <sup>valuable consideration</sup> [~~"concession"~~ stricken out] or not: But he considered the mode & rule of representation in

the 1<sup>st</sup> branch as [<sup>fully so,</sup> "a capital one" stricken out] and that after the establishment of that point, the small States would never be able to defend themselves without <sup>an</sup> equality of votes in the 2<sup>d</sup> branch. There was <sup>other</sup> no ground of accomodation. His resolution was fixt. He would meet the large States on that Ground and no other. For himself he should vote ag<sup>st</sup> the Report, because it yielded too much.

M<sup>r</sup> Gov<sup>r</sup> Morris. He had no resolution unalterably fixed except to do what should finally appear to him right. He was ag<sup>st</sup> the Report because it maintained the improper Constitution of the 2<sup>d</sup> branch. It made it [<sup>st</sup> "a membership of straw" stricken out]. another Congress, a mere whisp of straw. It had been [by M<sup>r</sup> Gerry] that the new Govern<sup>t</sup> would be partly national, partly federal; that it ought in the first quality to protect individuals; in the second, the States. But in what quality was it to protect the aggregate interest of the whole. Among the many provisions which had been urged, he had seen none for supporting the dignity and splendor of the American Empire. It had been one of our greatest misfortunes that the great objects of the nation [<sup>s</sup> "s" stricken out] had been sacrificed constantly to local views; in like manner as the general interests of ["the" stricken out] States had been sacrificed to those of the Counties. What is to be the check in the Senate? none; unless it be to keep the majority of the people from injuring [<sup>t</sup> "a" stricken out] particular States. But particular States ought to be injured ["which" stricken out] for the sake of a majority of the people, in case their conduct should deserve it. Suppose they should insist on claims evidently unjust, and pursue them in a manner detrimental to the whole body. Suppose they should give themselves up to foreign influence. Ought they to be ["all"

stricken out] protected in such cases. They were originally nothing more than colonial corporations. On the declaration of Independence, a Govern<sup>t</sup> was to be formed. The small States aware of the necessity of preventing anarchy, and taking advantage of the moment, extorted from the large ones ["an" written upon "the"] equality of votes. Standing now on that ground, they demand under the new system greater rights as men, than their fellow Citizens of the large States. The proper answer to them is that the same necessity of which they formerly took advantage does not now exist, and that the large States are at liberty now to consider what is right, rather than what may be expedient ["that" stricken out] We must have an efficient Gov<sup>t</sup> and if there be an efficiency in the local Gov<sup>ts</sup> ["then" stricken out] the former is impossible. Germany alone proves it. Notwithstanding their common diet, notwithstanding the great prerogatives of the Emperor as head of the Empire, and his vast resources as sovereign of his particular dominions, no union is maintained: foreign influence disturbs every internal operation, & there is no energy whatever in the general Governm<sup>t</sup> Whence does this proceed? From the energy of the local authorities; from its being considered of more consequence to support the Prince of Hesse, than the Happiness of the people of Germany. Do Gentlemen wish this to be y<sup>e</sup> case here. Good God, Sir, is it possible they can so delude themselves. What if all the Charters & Constitutions of the States were thrown into the fire, and all their demagogues into the ocean. What would <sup>it</sup> be to the happiness of America. And will not this be the case here if we pursue the train in w<sup>ch</sup> the business lies. We shall establish an Aulic Council without an Emperor to execute its decrees. The same cir-

cumstances which unite the people here, unite them in Germany. They have there a common language, a common law, common usages and manners—and a common interest in being united; yet their local jurisdictions destroy every tie. The case was the same in the Grecian States. The United Netherlands are at this time torn in factions. With these examples before our eyes shall we form establishments which must necessarily produce the same effects. It is of no consequence from what districts the 2<sup>d</sup> branch shall be drawn, if it be so constituted as to [“guard” stricken out] yield an asylum ag<sup>st</sup> these evils. As it is now constituted he must be ag<sup>st</sup> its being drawn from the States in equal [“parts” stricken out] portions. But shall <sup>he was</sup> ready <sup>to</sup> join in devising such an amendment of the plan, as will be most likely to secure our liberty & happiness.

Mr Sherman & Mr Elsworth moved to postpone the [“Report” stricken out]. Question on the Report from the Committee of a member from each State, in order to wait for the Report from the com<sup>e</sup>. of 5 last appointed.—  
Maryland ay

Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. N. J. ay P<sup>a</sup> ay. Del. ay. V<sup>a</sup> no. N. C. no. S. C—no. Geo. no.

Adj<sup>d</sup>

### Monday July 9<sup>th</sup> in Convention

Mr. Daniel Carroll from Maryland took his Seat.

Mr Gov<sup>r</sup> Morris <sup>delivered a</sup> report[“ed” stricken out] from the Com<sup>e</sup> of 5 members to whom was committed the clause in the Report of the Com<sup>e</sup> consisting of a member from each State, [“relating” stricken out] <sup>stating the</sup> proper ratio of Representatives in <sup>every</sup> the 1<sup>st</sup> branch, to be as 1 to 40,000 inhabitants, as follows viz

"The Committee to whom was referred the 1<sup>st</sup> clause of the 1<sup>st</sup> proposition reported from the grand Committee, beg leave to report<sup>I</sup> that in the 1<sup>st</sup> meeting of the Legislature the 1<sup>st</sup> branch thereof consist of 56. members of which Number N. Hamshire shall have 2. Mass<sup>ts</sup> 7. R. I<sup>d</sup> 1. Con<sup>t</sup> 4. N. Y.<sup>II</sup> 5. N. J. 3. Pa<sup>a</sup> 8. Del. 1. M<sup>d</sup> 4. V<sup>a</sup> 9. N. C. 5. S. C. 5. Geo. 2.—. But as the present situation of the States may probably alter as well in point of wealth as number<sup>in the</sup> of their inhabitants, that the Legislature be authorized from time to time to augment y<sup>e</sup> number of Representatives. And in case any of the States shall hereafter be divided, or any two or more united<sup>states</sup>, or any new States created within the limits of the United States, the Legislature shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principles of their wealth and number of inhabitants."

M<sup>r</sup> Sherman wished to know on what principles or calculations the Report was founded. It did not appear to correspond with any rule of numbers, or any requisition hitherto adopted by Cong<sup>s</sup>

M<sup>r</sup> G<sup>orham</sup> ["horum" stricken out]. Some provision of this sort was necessary in the outset. Fractions could not be observed. The Legisl<sup>re</sup> is to make alterations from time to time as justice & propriety may require. Two objections prevailed ag<sup>st</sup> the rate of 1 member for every 40,000. inh<sup>ts</sup>. The 1<sup>st</sup> was that the Representation would soon be too numerous: the 2<sup>d</sup> that the West<sup>n</sup> States who<sup>may</sup> have a different interest, might if admitted on that principal by degrees, out-vote the Atlantic. Both these objections are removed. The number will be small in the first instance and may be continued so, and the Atlantic States having y<sup>e</sup>. Gov<sup>t</sup>. in their

own hands, may take care of their own interest, by dealing out the right of Representation in safe proportions ["only" stricken out] to the Western States. These were the views of the Committee.

M<sup>r</sup> L. Martin wished to know whether the Com<sup>e</sup> were guided in the ratio, by the wealth or number of inhabitants of the States, or <sup>by</sup> both; noting its variations from former apportionments by Cong<sup>s</sup>

M<sup>r</sup> Gov<sup>r</sup> Morris & M<sup>r</sup> Rutledge moved to postpone the 1<sup>st</sup> <sup>paragraph</sup> ["part" stricken out] relating to number of members to be allowed each State in the first instance, and to take up the 2<sup>d</sup> <sup>paragraph</sup> ["part" stricken out] authorizing the Legis<sup>re</sup> to alter the number from time to time <sup>according to wealth & inhabitants</sup>. The motion was agreed to nem. con.

On Question on the 2<sup>d</sup> <sup>taken</sup> parag<sup>h</sup> without any debate

Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Sherman moved to refer the 1<sup>st</sup> part apportioning the Representatives to a Comm<sup>e</sup> of a member from each State.

M<sup>r</sup> Gov<sup>r</sup> Morris seconded the motion; observing that this was the only case in which such Committees were useful.

M<sup>r</sup> Williamson. thought it would be necessary to return to the rule of numbers. but that the Western States stood on different footing. If their property shall be rated as high as that of the Atlantic States, then their representation ought to hold a like proportion. Otherwise if their property was not to be equally rated.

M<sup>r</sup> Gov<sup>r</sup> Morris. The Report is little more than a guess. Wealth was not altogether disregarded by the Com<sup>e</sup> Where it was apparently in favor of one State whose no<sup>s</sup> <sup>superior</sup> were ["equal" stricken out] to the number of another, by a frac-



tion only, a number extraordinary was allowed to the former: and so vice versa. The Committee meant little more than to bring this matter to a point for the consideration of the House.

Mr Reed asked why Georgia was allowed 2 members, when her number of inhabitants had stood below that of Delaware.

Mr Gov<sup>r</sup> Morris. Such is the rapidity of the population of that State, that before the plan takes effect, it will probably be entitled to 2 Representatives

Mr Randolph disliked the report of the Com<sup>e</sup> but had been unwilling to object to it. He was apprehensive that as the number was not to be changed till the Nat<sup>l</sup> Legislature should please, a pretext would never be wanting to postpone alterations, and keep the power in the hands of those possessed of it. He was in favor of the commitm<sup>t</sup>. to a member from each State

Mr Patterson considered the proposed estimate [“hereafter”  
for the future  
stricken out] according to the Combined rule of numbers and wealth, as too vague. For this reason N. Jersey was ag<sup>st</sup> it. He could regard negroes <sup>slaves</sup> in no light but as property. [“when”  
no  
stricken out] They are no free agents, have <sup>no</sup> personal liberty, no faculty of acquiring property, but on the contrary are themselves property, & like other property entirely at the will of the Master. Has a man in Virg<sup>a</sup> a number of votes in proportion to the number of his slaves? and if Negroes are not represented in the States to which they belong, why should they be represented in the Gen<sup>l</sup> Gov<sup>t</sup> What is the true principle of Representation? It is an expedient by which certain individ<sup>ls</sup> <sup>an assembly of</sup> chosen by the people is substituted in place of the inconvenient [“impracticable” stricken out] meeting of the people themselves. If such a meeting of the people

was actually to take place, would the slaves vote? they would not. Why then sh<sup>d</sup> they be represented. He was also ag<sup>st</sup>. such an indirect encouragem<sup>t</sup>. of the slave trade; observing that Cong<sup>s</sup>. in their act relating to the change of the 8 art: of Confed<sup>n</sup>. had been ashamed to use the term "Slaves" & had substituted <sup>a</sup> description.

Mr. Madison, reminded Mr. Patterson that his doctrine of Representation which was in its principle the genuine one, must for ever silence the pretensions of the small States to an equality of votes with the large ones. They ought to vote in the same proportion ["with the people of the" stricken out] <sup>in</sup> which their citizens would do, if the people of all the States were collectively me["t" written upon "n"] He suggested as a proper ground of compromise, that in the first branch the States should be represented according to their number of free inhabitants; And in the 2<sup>d</sup> which had for one of its primary objects the guardianship ["of the rights" stricken out] of property, according to the whole number, including slaves.

M<sup>r</sup> Butler urged warmly the justice & necessity of regarding wealth in the apportionment of Representation.

M<sup>r</sup> King had always expected that as the Southern States are the richest, they would not league themselves with the North" unless some respect were paid to their superior wealth. If the latter expect those preferential distinctions <sup>& other advantages</sup> in Commerce which they will derive from the connection they must not expect to receive them without allowing some advantages in return. Eleven out of 13 of the States had agreed to consider Slaves in the apportionment of taxation; and taxation and Representation ought to go together.

On the question for <sup>committing the first ["part of the" stricken out] paragraph of the</sup> ["referring the" stricken out] <sup>^</sup> Report to a member from each State.

Mas<sup>ts</sup> ay. Con<sup>t</sup> ay. N. Y. no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay.

The Com<sup>e</sup> appointed were. M<sup>r</sup> King, M<sup>r</sup> Sherman, M<sup>r</sup> Yates, M<sup>r</sup> Brearly, M<sup>r</sup> Gov<sup>r</sup> Morris, M<sup>r</sup> Reed, M<sup>r</sup> Carrol, M<sup>r</sup> Madison, M<sup>r</sup> Williamson, M<sup>r</sup> Rutledge, M<sup>r</sup> Houston.

Adj<sup>d</sup>

Teusday. July 10. In Convention

M<sup>r</sup> King reported from the Com<sup>e</sup> yesterday appointed that the States at the 1<sup>st</sup> meeting of the General Legislature, should be represented by 65 members in the following proportions, to wit. N. Hamshire by 3, Mas<sup>ts</sup> S. R. Is<sup>d</sup> 1. Con<sup>t</sup> 5. N. Y. 6. N. J. 4. P<sup>a</sup> 8. Del. 1. M<sup>d</sup> 6. V<sup>a</sup> 10. N. C. 5. S. C. 5, Georgia 3.

M<sup>r</sup> Rutledge moved that N. Hampshire be reduced from 3 to 2. members. Her numbers did not entitle her to 3 and it was a poor State.

Gen<sup>l</sup> Pinkney seconds the motion.

M<sup>r</sup> King. N. Hamshire has probably more than 120,000 Inhab<sup>ts</sup> and has an extensive country of tolerable fertility. Its inhab<sup>ts</sup> therefore may be expected to increase fast. He remarked that the four Eastern States having 800,000 souls, have  $\frac{1}{3}$  fewer representatives than the four Southern States, having not more than 700,000 souls rating the blacks, as 5 for 3. The Eastern people will advert to these circumstances, and be dissatisfied ["with" stricken out]. He believed them to be very desirous of uniting with their Southern brethren ["who could" <sup>but did</sup> stricken out] not think it prudent to rely so far on that disposition as to subject <sup>them</sup> to any gross inequality. ["He was to the fully impressed with the idea Convin" <sup>["" stricken out"]</sup> stricken out] He was fully convinced that the ["diff"

stricken out] question concerning a difference of interests did not lie where it had hitherto been discussed, between the great & small States; but between the Southern & Eastern. For this reason he had been ready to yield something in the ["extention" stricken out] <sup>proportion</sup> of representatives for the security of the Southern. No principle would justify the giving them a majority. They were brought as near an equality as was possible. He was not averse to giving them a still greater security, but did not see how it could be done.

Gen<sup>l</sup> Pinkney. The Report before it was committed was more favorable to the S. States than as it now stands. If they are to form so considerable a minority, and the regulation of trade is to be given to the Gen<sup>l</sup> Government, they will be nothing more than overseers for the Northern States. He did not expect the S. States to be raised to a majority of representatives, but wished them to have something like an equality. At present the alterations of the Com<sup>e</sup> <sup>by</sup> <sup>in favor of the N. States</sup> ["had" stricken out] they are removed farther from it than they were before. One member had indeed been added to Virg<sup>a</sup> which he was glad of as he considered her as a Southern State. He was glad also that the members<sup>l</sup> of ["Geog<sup>a</sup>" stricken out] Georgia were increased.

M<sup>r</sup> Williamson <sup>was</sup> not for reducing N. Hampshire from 3 to 2. but for reducing some others. <sup>The</sup> South<sup>n</sup> Interest must be extremely endangered by the present arrangement. The North<sup>n</sup> States are to have a majority in the first instance and the means of perpetuating it.

M<sup>r</sup> Dayton observed that the line between the North<sup>n</sup> & Southern interest had been improperly drawn: that P<sup>a</sup> was the ["true" stricken out] dividing State, there being six on each side of her.

Gen<sup>l</sup> Pinkney urged the reduction, dwelt on the superior wealth of the Southern States, and insisted on its having its due weight in the Government.

M<sup>r</sup> Gov<sup>r</sup> Morris regretted the turn of the debate. The States he found had many Representatives on the floor. Few he fears were to be deemed the Representatives of America. He thought the Southern States have by the report more than their share of representation. Property ought to have its weight; but but not all the weight. If <sup>the South<sup>n</sup> States are to</sup> ["they" stricken out] <sup>["are to" stricken out]</sup> supply money. The North<sup>n</sup> States are to spill their blood. Besides, the probable Revenue [<sup>to be expected from</sup> "of" stricken out] the S. States has been greatly overated. He was ag<sup>t</sup> reducing N. Hamshire.

M<sup>r</sup> Randolph was opposed to a reduction of N. Hamshire, not because she had a full title to three members; but because it was in his contemplations, to make it the duty instead of leaving it in the discretion of the Legislature to regulate the representation by a periodical census. 2. to require more than a bare majority of votes in the Legislature in certain <sup>cases</sup> <sup>^</sup>, & particularly in commercial cases.

On the question for reducing N. Hamshire from 3 to 2 Represent<sup>s</sup> it passed in the negative

Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. <sup>\*</sup>ay. S. C. ay. Geo. <sup>\*</sup>no.

Gen<sup>l</sup> Pinkney & M<sup>r</sup> Alex<sup>r</sup> Martin moved that 6 Rep<sup>s</sup> instead of 5 be allowed to N. Carolina

On the question, it passed in the negative  
Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

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\* In the printed Journal. N. C. no. Geo. ay

Gen<sup>l</sup> Pinkney & M<sup>r</sup> Butler made the same motion in favor of S. Carolina

On the Question it <sup>passed in the negative</sup>

Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. ["ay" stricken out]; M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay

Gen<sup>l</sup> Pinkney & M<sup>r</sup> Houston moved that Georgia be allowed 4 instead of 3 Rep<sup>s</sup> urging the unexampled celerity of its population. On the Question, it <sup>passed in the Negative</sup>

Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N: C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Madison moved that the number allowed to each State be doubled. ["He thought" stricken out] A majority of a Quorum of 65 members, was too small a number <sup>to represent</sup> <sup>[erased word]</sup> ["represent in the popular branch" stricken out], the whole inhabitants of the U. States; ["that" stricken out] They would not possess enough of the confidence of the people, and w<sup>d</sup> be too sparsely taken from the people, to bring with them all ["That" stricken out] Double the number will not be too great even with the future additions from the local information which would be frequently wanted. <sup>New States.</sup> The additional expence <sup>was</sup> ["he thought" stricken out] too <sup>as far as the augmentation</sup> inconsiderable to be regarded in so important a case. And ["if as far as it" stricken out] might be <sup>was</sup> unpopular on that score, ["he thought" stricken out] the objection <sup>was</sup> overbalanced by [illegible word, "effect it would have on," illegible word <sup>its effects on the hopes of</sup> stricken out] a greater number of the popular Candidates.

M<sup>r</sup> Elseworth urged the objection of expence, <sup>&</sup> that the greater the number, the more slowly would the business proceed; and the less probably be decided as it ought, at last—He thought the number of Representatives too great in most of the State Legislatures: and that a large number was less necessary in the Gen<sup>l</sup> Legislature than in those of the States, as its business would relate to a few great, national Objects only.



Mr Sherman would have preferred 50 to 65. The great distance they will have to travel will render their attendance precarious and will make it difficult to prevail on a sufficient number of fit men to undertake the service. He observed <sup>the expected</sup> that increase from New States also deserved consideration.

Mr Gerry was for increasing the number beyond 65. The larger the number the less the danger of their being corrupted. The people are accustomed to & fond of a numerous representation, and will consider their rights as better secured by it. The danger of excess in the number may be guarded ag<sup>st</sup> by fixing a point within which the number shall always be kept.

Col. Mason admitted that the objection drawn from the consideration of expence, had weight both in itself, and as the people might be affected by it. But he thought it outweighed by the objections ag<sup>st</sup> the smallness of the number. If 38, will he supposes, as being a majority of 65, form a quorum, 20 will be a majority of 38. This was certainly too small a number to make laws for America. [“They” written upon “It”] would neither bring with them all the necessary information relative to various local interests, nor possess th[“e” written upon “a”, “t” stricken out] necessary confidence of the people. [“By” stricken out] <sup>After</sup> doubling the number, the laws might <sup>still</sup> be made by so few as almost to be objectionable on that account.

Mr Read was in favor of the motion. Two of the States <sup>aggregate number</sup> [Del. & R. I.] would have but a single member if the [“number in case” stricken out] should remain at 65. and in case of accident to either of these one State w<sup>d</sup> have no representative present to give explanations or informations of its interests or wishes. The people would not place their

confidence in so small a number. He hoped the objects of the Gen<sup>l</sup> Gov<sup>t</sup> would be much more numerous than seemed to be expected by some gentlemen, and that they would become more & more so. As to New States the highest number of Rep<sup>s</sup> for the whole might be limited, and all danger of excess thereby prevented.

M<sup>r</sup> Rutledge opposed the motion. The Representatives were too numerous in all the States. The full number allotted to the States may be expected to attend. <sup>& the lowest possible quorum sh<sup>d</sup>. not therefore be considered—</sup> The interests of their Constituents will urge <sup>their attendance</sup> ["it" stricken out] too strongly <sup>for it</sup> to be omitted: and he supposed the Gen<sup>l</sup> Legislature would not sit more than 6 or 8 weeks in the year.

On the question for doubling the number, it passed in the negative.

Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. Y. no. N. J. no. Pa<sup>a</sup> no. Del ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

On question for agreeing to the ["Reported" stricken out] <sup>by the last committee it passed in the affirmative</sup> apportionment of Rep<sup>s</sup> as amended,

Mas. ay. Con<sup>t</sup> ay. N. Y. ay. N. J. ay. Pa<sup>a</sup> ay. M<sup>d</sup> ay. V<sup>a</sup> ay. <sup>Del ay.</sup> N. C. ay. S. C. no. Geo. no.

M<sup>r</sup> Brown gave notice to the House that he had concurred with a reserve to himself of ["the right" stricken out] an intention to claim for his State an equal voice in the 2<sup>d</sup> branch: which he thought could not be denied after this concession of the small States <sup>as to</sup> ["in" stricken out] the first branch.

<sup>as an amendment to the report of the Comm<sup>e</sup>. of five</sup>

M<sup>r</sup> Randolph moved "that in order to ascertain the alterations in the population & wealth of the several States the Legislature should be required to cause a census, and estimate to be taken within one year after its first meeting; and every <sup>the</sup> years thereafter—and that Legisl<sup>re</sup> arrange the Representation accordingly."

Mr Gov<sup>r</sup> Morris opposed it as fettering the Legislature too much. Advantage may be taken of it in time of war, <sup>or the apprehension of it,</sup> by new States to extort particular favors. If the mode was to be fixed for taking a census, it might certainly be extremely inconvenient; if unfixed the Legislature may use such a mode as will defeat the object: and perpetuate the inequality. He was always ag<sup>st</sup> such Shackles on the Legisl<sup>re</sup>. They had been found very pernicious in most of the State Constitutions. He dwelt much on the danger of throwing such a preponderancy into the Western Scale, suggesting that in time the Western people w<sup>d</sup> outnumber the Atlantic States. He wished therefore to put it in the["ir" stricken out] power of the latter to keep a majority of votes in their own hands. It was objected <sup>he said</sup> that if the Legisl<sup>re</sup> are left at liberty, they will never readjust the Representation. He admitted that this was possible, but he did ["it" stricken out] not think it probable unless the reasons ag<sup>st</sup> a revision of it were very urgent & ["that" stricken out] in this case, it ought not to be done.

It was moved to postpone the [<sup>proposition</sup> "motion" stricken out] of Mr Randolph in order to take up the following, viz. "that the Committee of Eleven, to whom was referred the report of the Committee of five on the subject of Representation, be requested to furnish the Convention with the principles on which they grounded the Report," which was disagreed to:

S. C. only voting in the affirmative.

Adjourned.

Wednesday July 11. in Convention

M<sup>r</sup> Randolph's motion requiring the Legisl<sup>re</sup> to take a <sup>periodical</sup> <sup>^</sup> census for the purpose of redressing inequalities in the Representation resumed.   
 [{"was" stricken out}, {"being" stricken out}]

M<sup>r</sup> Sherman was ag<sup>st</sup> Shackling the Legisl<sup>re</sup> <sup>at</sup> too much. We ought to choose wise & good men, and confide in them.

M<sup>r</sup> Mason. The greater the difficulty we find in fixing a proper rule of Representation, the more unwilling ought we to be, to throw the task from ourselves, on the Gen<sup>l</sup> Legisl<sup>re</sup>. He did not object to the conjectural ratio which was to prevail in the outset; but considered a Revision from time to time according to some permanent & precise standard as essential to y<sup>e</sup> fair representation required in the 1<sup>st</sup> branch. According to the present population of America, the North<sup>n</sup> part of it had a right to preponderate, and he could not deny it. But he wished it not to preponderate hereafter when the reason no longer continued. From the nature of man we may be sure, that those who have power in their hands will not give <sup>it</sup> up while they can retain it. On the Contrary we know they will always when they can increase it. If the S. States therefore should have  $\frac{3}{4}$  of the people of America within their limits, the Northern will hold fast the majority of Representatives.  $\frac{1}{4}$  will govern the  $\frac{3}{4}$ . The S. States will complain: but they may complain from generation to generation without redress. Unless some principle therefore which will do justice to them hereafter shall be inserted in the Constitution, disagreeable as the declaration was to him, he must declare he could neither vote for <sup>the</sup> system here nor support it, in his State. Strong had been drawn from the danger to the Atlantic interests from new Western States. Ought we to sacrifice what we know to be right in itself, lest

it should prove favorable to States which are not yet in existence. If the Western States are to be admitted into the Union as they arise, they must, he w<sup>d</sup> repeat, be treated as equals, and subjected to no degrading discriminations. They will have the same pride & other passions which we have, and will either not unite with or will speedily revolt from the Union, if they are not in all respects placed on an equal footing with their brethren. It has been said they will be poor, and unable to make equal contributions to the general Treasury. He did not know but that in time they would be both more numerous & more wealthy than their Atlantic brethren; [“tho’ perhaps not before they might choose to become a separate people” stricken out]. The extent & fertility of their soil, made this probable; and though Spain might for<sup>a</sup> time deprive them [“of that” stricken out] of the natural outlet for their productions, yet she will, because she must, finally yield to their demands. He urged that numbers of inhabitants; though not always a precise standard [“for representation” stricken out]<sup>of wealth</sup> was sufficiently so for every substantial purpose.

Mr Williamson was for making it the duty of the Legislature to do what was right & not leaving it at liberty to<sup>do</sup> or not do it. [“as” stricken out] He moved that Mr Randolph’s proposition be postponed<sup>d</sup> in order to consider the following “that in order to ascertain the alterations<sup>that may happen</sup> in the population & wealth of the several States, a census shall be taken of the free white inhabitants and<sup>3<sup>th</sup></sup><sub>5</sub> of those of other descriptions on the 1<sup>st</sup> year [“of its meeting” stricken out]<sup>after this Government shall have been adopted</sup> and every [“the Legislature shall throughout” stricken out] year thereafter; and that the Representation [“be regulated” stricken out]<sup>be regulated</sup> accordingly.”

Mr Randolph agreed that Mr Williamson’s proposition

should stand in the place of his. He observed that the ratio fixt for the 1<sup>st</sup> meeting was a mere conjecture, that it placed the power in the hands of that part of America, which could not always be entitled to it, that this power would not be voluntarily renounced; and that it was consequently the duty of the Convention to secure its renunciation when justice might <sup>so</sup> require; by some constitutional provisions. If equality between great & small States be inadmissable, because in that case unequal numbers of Constituents w<sup>d</sup> be represented by equal number of votes; was it not equally inadmissable that a larger & more populous district of America should [“be represented an inferior” <sup>hereafter have less</sup> stricken out] representation, than a smaller & less populous district. If a fair representation of the people be not secured, the injustice of the Gov<sup>t</sup> will shake it to its foundations. [“This is” <sup>What relates to suffrage</sup> stricken out] is justly stated by the celebrated Montesquieu, as a fundamental article in Republican Gov<sup>ts</sup>. If the danger suggested by M<sup>r</sup> Gov<sup>r</sup> Morris be real, of advantage being taken of the Legislature in pressing moments, it was an additional reason, for tying their hands in such a manner that they could not sacrifice their trust to momentary considerations, Cong<sup>s</sup> have pledged the public faith to New States, that they shall be admitted on equal terms. They never would nor ought to accede on any other. The census must be taken under the direction of the General Legislature. The States will be too much interested to take an impartial one for themselves.

M<sup>r</sup> Butler & Gen<sup>l</sup> Pinkney [“moved” <sup>insisted</sup> stricken out] <sup>in the</sup> that blacks be included [“as” stricken out] <sup>in the</sup> rule of Representation, equally with the Whites; and for that purpose moved that the words “three fifths” be struck out.

M<sup>r</sup> Gerry thought that  $\frac{3}{5}$  of them was to say the least the full proportion that could be admitted.



Mr Ghorum. This ratio <sup>was</sup> fixed by Cong<sup>s</sup> as a rule of taxation. Then it was urged by the Delegates representing the States having slaves that the blacks were still more inferior to ["the" stricken out] freemen. At present when the ratio of representation is to be established, we are assured that they are equal to freemen. The arguments on y<sup>e</sup> former occasion had convinced him that  $\frac{3}{5}$  was pretty near the just proportion and he should vote according to the same opinion now.

Mr Butler insisted that the labour of a slave in S. Carol<sup>a</sup> was as productive & valuable as that of a freeman in Mass<sup>ts</sup>, that as ["money" stricken out] <sup>wealth</sup> was the great means of defence and utility to the Nation they are equally valuable to it with freemen; and that consequently an equal representation ought to be allowed for them in a Government which was instituted principally for the protection of property, and was itself to be supported by property.

Mr Mason. could not agree to the motion, notwithstanding it was favorable to Virg<sup>a</sup> because he thought it unjust. It was certain that the slaves were valuable, as they raised the value of land, increased the exports & imports, and of course the revenue, would supply the means of feeding & supporting an army, and might in cases of emergency become themselves soldiers. As in these important respects they were useful to the community at large, they ought not to be excluded from the estimate of Representation. He could not however regard them as equal to freemen and could not vote for them as such. He added as worthy of remark, that the Southern States have this peculiar species of property, over & above the other species of property common to all the States.

Mr Williamson reminded Mr Ghorum that if the South<sup>n</sup> States contended for the inferiority of [<sup>blacks</sup> "slaves" stricken

out] to whites when taxation was in view, the Eastern <sup>States</sup> on <sup>not</sup> the same occasion contended for their equality. He did <sup>not</sup> however either then or now, concur in either extreme, but approved of the ratio of  $\frac{3}{5}$ .

On M<sup>r</sup> Butlers motion for considering blacks as equal to Whites in <sup>the</sup> apportionm<sup>t</sup> of Representation

Mass<sup>ts</sup> no. Con<sup>t</sup> no. [N. Y. not on floor.] N. J. no. P<sup>a</sup> no. <sup>Va no</sup> Del. ay. M<sup>d</sup> no. N. C. no. S. C. ay. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris said he had several objections <sup>to</sup> the proposition of M<sup>r</sup> Williamson. 1. It fettered the Legislature too much. 2. it would exclude some States altogether who would not have a sufficient number to entitle ["it" stricken <sup>them</sup> out] to a single Representative. 3. it will not consist with the Resolution passed on Saturday last authorizing the Legislature to adjust the Representation from time to time on the principles of population & wealth <sup>or with the principles of equity</sup>. If slaves were <sup>to</sup> ["to" stricken out] ["not" stricken out] be considered as inhabitants, not as wealth, then the s<sup>d</sup> Resolution would not be pursued: If as wealth, the ["n" written upon "y"] why is no other wealth but slaves included? These objections may perhaps be removed by amendments. His great objection <sup>the</sup> was that number["s" stricken out] of inhabitants was not a proper standard of wealth. ["They might withdraw property" stricken out]. The amazing difference ["with" stricken out] between the comparative numbers & wealth of different Countries, rendered all reasoning superfluous on the subject. Numbers might with greater propriety be deemed a measure of strength, than of wealth, yet the late defence made by G. Britain ag<sup>st</sup> her numerous enemies proved in the clearest manner, that it is entirely fallacious <sup>even</sup> in this respect. [Illegible word stricken out.]

M<sup>r</sup> King thought there was great force in the objections of M<sup>r</sup> Gov<sup>r</sup> Morris: he would however accede to the proposition for the sake of doing something.

M<sup>r</sup> Rutledge contended for the admission of wealth in the estimate by which Representation should be regulated. The Western States will not be able to contribute in proportion to their numbers, they sh<sup>d</sup> not therefore be represented in that proportion. The Atlantic States will not concur in such a plan. He moved that "at the ["first" stricken out] end of        years after the 1<sup>st</sup> meeting of the Legislature, and of every        years thereafter, the Legislature shall proportion the Representation according to the principles of wealth & population"

M<sup>r</sup> Sherman thought the number of people <sup>alone</sup> the best rule for measuring wealth as well as representation; and if the Legislature were to be governed by wealth, they would be obliged to estimate it by numbers. He was at first for leaving the matter wholly to the discretion of the Legislature; but he had been convinced by the observations of [M<sup>r</sup> Randolph & M<sup>r</sup> Mason] that <sup>that</sup> the periods & the rule of revising the Representation ought to be fixt by the Constitution

M<sup>r</sup> Reid thought the Legislature ought not to be too much shackled. It would make the Constitution like Religious Creeds, embarrassing to those bound to conform to ["it" stricken out] <sup>them</sup> & more likely to produce dissatisfaction and Scism, than harmony and union.

M<sup>r</sup> Mason objected to M<sup>r</sup> Rutledge motion, <sup>as</sup> requiring of the Legislature something too indefinite & impracticable, and leaving them a pretext for doing nothing.

M<sup>r</sup> Wilson had himself no objection to leaving the Legislature entirely at liberty. But considered wealth as an impracticable rule.

Mr Ghorum. If the Convention who are comparatively so little biassed by local views are so much perplexed, How can it be expected that the Legislature hereafter ["act" stricken out] under the full biass of those views, will be able to settle a standard. He was convinced by the arguments of others & his own reflections, that the Convention ought to fix some standard or other.

Mr Gov<sup>r</sup> Morris. The arg<sup>ts</sup> of others & his own reflections had led him to a very different conclusion. If we can<sup>t</sup> agree on a rule that ["will" <sup>will n</sup> stricken out] be just at this time, how can we expect to find one that will be just in all times to come. Surely those who come after us will judge better of things present, than we can of things future. He could not persuade himself that numbers would be a just rule at any time. The remarks of [Mr Mason] relative to the Western Country had not changed his opinion on that head. Among other objections it must be apparent they would not be able to furnish men equally enlightened, to share in the administration of our common interests. The Busiest haunts of men not the remote wilderness, was the proper School of

If the Western people get the power into their hands they will ruin the Atlantic interests. The political Talents. Another objection with him ag<sup>st</sup> admitting the blacks into the census, was that the people of Pen<sup>a</sup> Back members are always the most averse to the best measures. He mentioned the case of Pen<sup>a</sup> formerly. The lower part of the State had ye. power in the first instance. They kept it in yr. would revolt at the idea of being put on a footing with slaves. own hands. & the country was ye. better for it.

They would reject any plan that was to have such an effect. Two objections had been raised ag<sup>st</sup> leaving the adjustment of the Representation from time to time, to the discretion of the Legislature. The 1. was they would be unwilling to revise it at all. The 2 that by referring to wealth they would be bound by a rule which if willing, they would be unable to execute. The 1<sup>st</sup> obj<sup>n</sup> distrusts their fidelity. But if their duty, their honor & their oaths will not bind them,

let us not put into their hands our liberty, and all our other great interests. let us have no Gov<sup>t</sup> at all. 2. If these ties will bind them. we need not distrust the practicability of the rule. It was followed in part by the Com<sup>e</sup> in the apportionment of Representatives yesterday reported to the House. The best course that could be taken would be to leave the interest of the people to the Representatives of the people.

Mr Madison was not a little surprised to hear this implicit confidence urged by a member who on all occasions, had inculcated So strongly, the political depravity of men, and the necessity of checking one vice and interest by opposing to them another vice & interest. If the Representatives of the people would be bound by the ties he had mentioned, what need was <sup>there</sup> of a Senate? What of a Revisionary power? But his reasoning was not only inconsistent with his former reasoning, but with itself. at the same time that he recommended this implicit confidence to the Southern States in the Northern Majority, he was still more zealous in exhorting all to a jealousy of ["the" stricken out] Western majority. To reconcile the ["hon<sup>ble</sup>" stricken out] gentl<sup>n</sup> with himself it ["it" stricken out] must be imagined that he <sup>determined</sup> ["estimated" stricken out] the human character by the points of the compass. The truth was that all men having power ought to be ["both distrusted & confided in to a certain degree, that if there was any difference in men it d<sup>d</sup> not depend in different situations it must" illegible word "that if any real difference lay between them in the different situations mentioned" stricken out] distrusted to a certain degree. The case of Pen<sup>a</sup> had been mentioned <sup>where it</sup> ["It" stricken out] was admitted that those who were possessed of the power in the original settlement, never admitted the new settlm<sup>ts</sup> to a due share of

it. England was a still more striking example. The power there had long been in hands of the boroughs, of the minority; who had opposed & defeated every reform which had been attempted, ["in the Representation" stricken out]. Virg<sup>a</sup> was in a lesser degree another example. With regard to the Western States, he was clear & firm in ["the" stricken out] opinion that no unfavorable distinctions ["ought" stricken out] were admissible either in point of justice or policy. He thought also that the hope of contributions ["to" written upon "four"] the Treas.<sup>y</sup> from them had been much underrated. Future contributions it seemed to be understood on all hands would be principally levied on imports and exports. The extent & fertility of the Western Soil would for a long time give to agriculture a preference over manufactures. Trials would be repeated till some articles could be raised from it that would bear a transportation to places where they could be exchanged for imported manufactures. Whenever the Mississipi should be opened to them, which would of necessity be y<sup>e</sup> case as soon as <sup>their their population would subject</sup> ["they would be partly so" stricken out] them to any considerable share of the public burdin, imposts on their trade could be collected with less expense & greater certainty, than on that of the Atlantic States. In the meantime, as their supplies must pass thro' the Atlantic States ["they would" stricken out] <sup>their</sup> contributions would be levied in the same manner with those of the Atlantic States.—He could not agree that any substantial objection lay ag<sup>st</sup> fixi<sup>g</sup> numbers for the perpetual standard of Representation. It was said that Representation & taxation were to go together; that taxation & wealth ought to go together, that population and wealth were not measures of each other. ["He would not contend" stricken out]. He



admitted that in different climates, under different forms of

Gov<sup>t</sup> and in different stages of civilization [<sup>inference</sup> the : ["observation" stricken out] was perfectly just. He would admit that in no situation, ["and particularly on that" stricken out] wealth of equal numbers of people might be very unequally", illegible word, "and very unequally of the U. S." stricken out] numbers of inhabitants were ["not" stricken out] an accurate measure of [illegible word stricken out] wealth. He contended however that in the U. States it was sufficiently so for the object in contemplation. ["Although" written upon "the", illegible words stricken out] Altho' their climate varied considerably, yet as the Gov<sup>ts</sup> ["of all were" stricken out] the laws, and the manners of all were nearly the same, and the intercourse between different parts perfectly <sup>free</sup>, population, industry, arts, and the value of labour, would constantly tend to equalize themselves. ["The last is a criterion" stricken out] The value of labour, might be considered as the principal criterion of wealth and ability to support taxes; and this [illegible words stricken out] would find its level in different places where the intercourse should be easy & free, with as much certainty as the value of money or any other thing. Wherever labour would yield most, people would resort, till the competition should destroy the <sup>inequality</sup> ["advantage" stricken out]. Hence it is that the people are constantly swarming from the more to <sup>the</sup> less populous places—from Europe to Am<sup>a</sup> from the North<sup>n</sup> & middle parts of <sup>the U. S.</sup> ["Amc<sup>a</sup>" stricken out] to the Southern & Western. They go where land is cheaper, because their labour is dearer. If it be true that the same <sup>quantity of produce raised</sup> ["commodity" stricken out] on the banks of the Ohio is of less value than on the Delaware, it is also true that the same labor will raise twice or thrice, the quantity in the former, that it will raise in the latter situation.

Col. Mason, Agreed with M<sup>r</sup> Gov<sup>r</sup> Morris that we ought to

leave the interests of the people to the Representatives of the people: but the objection was that the["y" stricken out] Legislature would cease to be ["the" stricken out] the Representatives of the people. It would continue so no longer than the States now containing a majority of the people should retain that majority. As soon as the Southern & Western population should predominate, which must happen in a few years, the power w<sup>d</sup> be in the["ir" stricken out] hands of the minority, and would never be yielded to the majority, unless provided for by the Constitution

On the question for postponing M<sup>r</sup> Williamson's motion, in order to consider that of M<sup>r</sup> Rutledge, <sup>it passed in the negative</sup> Mass<sup>ts</sup> ay. Cont<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo.—ay.

On the question on the first clause ["only so" stricken out] <sup>of M<sup>r</sup> Williamson's motion</sup> far as to taking a census of the <sup>it passed in the affirmative</sup> free inhabitants. Mas<sup>ts</sup> ay. Cont<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. no.

<sup>the next clause as to § of <sup>the</sup> negroes considered</sup> M<sup>r</sup> King. ["was" stricken out] <sup>being</sup> much opposed to fixing numbers as the rule of representation, was particularly so on account of the blacks. He thought the admission of them along with Whites at all, would excite great discontents among the States having no slaves. He had never said as to any particular point that he would in no event acquiesce in & support it; but he w<sup>d</sup> say that if in any case such a declaration was to be made by him, it would be in this. He remarked that in the <sup>temporary</sup> allotment of Representatives made by the Committee, the Southern States had received more than the number of their white & three fifths of their black inhabitants entitled them to.

Mr Sherman. S. Carol<sup>a</sup> had <sup>not</sup> more beyond her proportion than N. York & N. Hampshire, nor either of them more than was necessary in order to avoid fractions or reducing them below their proportion. Georgia had more; but the rapid growth of that State seemed to justify it. In general the allotment might not be just, but considering all circumstances, he was satisfied with it.

Mr Ghorum. supported the propriety of establishing numbers as the rule. He said that in Mass<sup>ts</sup> estimates had been taken in the different towns, and that persons had been curious enough to compare these estimates with the respective numbers of people; and it had been found even including Boston, that the most exact proportion <sup>between numbers & property</sup> prevailed. He was aware that there might be some weight in what had fallen from his colleague, as to the umbrage which <sup>might</sup> be taken by the people of the Eastern States. But he recollected that when the proposition of Cong<sup>s</sup> for changing the 8<sup>th</sup> art: of Confed<sup>n</sup> was before the Legislature of Mass<sup>ts</sup> the only difficulty then was to satisfy them that the negroes ought not to have been counted [<sup>equally with</sup> "as" stricken out] whites instead of being counted ["in" written upon "it"] the ratio of three fifths only.\*

Mr Wilson did not well see on what principle the admission of blacks in the proportion of three fifths could be explained. Are they admitted as Citizens? Then why are they not admitted on an equality with White Citizens? Are they admitted as property? then why is not other property admitted into the computation? These were difficulties however which he thought must be overruled by the necessity of compromise. He had some apprehensions also [<sup>from the tendency of</sup> "that from" stricken out] the blending of the blacks with the whites, to

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\* They were then to have been a rule of taxation only.

give disgust to the people of Pen<sup>a</sup> as had been intimated by his colleague [M<sup>r</sup> Gov<sup>r</sup> Morris]. But he differed from <sup>him</sup> in thinking numbers of inhab<sup>ts</sup> so incorrect a measure of wealth. He had seen the Western settle<sup>ts</sup> of P<sup>a</sup> and on a comparison of them with the City of Philad<sup>a</sup> could discover little other difference, than that property was more unequally divided among individuals here than there. Taking the same number in the aggregate in the two situations [illegible word stricken out] he believed there would be little difference in their wealth and ability to contribute to the public wants.

M<sup>r</sup> Gov<sup>r</sup> Morris was [“was” <sup>compelled to declare himself</sup> stricken out] reduced to the dilemma of doing injustice to the Southern States or to human nature, and he must therefore do it to the former. For he could never agree to give such encouragement to the slave trade as would be given by allowing them a representation for their negroes, and he did not believe those States would ever confederate on terms that would deprive them of that trade.

On Question for agreeing to <sup>include</sup>  $\frac{3}{5}$  of the blacks

Masts. no. Con<sup>t</sup> ay N. J. no. P<sup>a</sup> no. Del. no. [“M<sup>d</sup>” stricken out] Mard.\* no. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay

[\* M<sup>r</sup>. Carrol s<sup>d</sup>. in explanation of the vote of M<sup>d</sup>. that he wished the phraseology to be so altered as to obviate <sup>if possible</sup> the danger which had been expressed of giving umbrage to the Eastern & Middle States [“if possible” stricken out.]]

On the question as to taking census [“1” written over <sup>the first</sup> “one” stricken out] year after meeting of the Legislature”

Masts. ay. Con<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. no.

On filling the blank for the periodical census with 15 years”. agreed to nem. con.

M<sup>r</sup>. [“M.” stricken out] <sup>Madison</sup> moved to add after “15 years,” the words “at least” that the Legislature [“might” stricken

out] might anticipate when circumstances [“might” stricken  
were likely to  
out] render a particular year inconvenient.

On this motion for adding “at least”, it passed in the negative the States being equally divided.

Mas. ay. Con<sup>t</sup> no. N. J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

A Change of the phraseology <sup>of the other clause</sup> so as to read; “and the Legislature [“to alter accord<sup>ly</sup> &” <sup>shall alter or augment the representation accordingly”</sup> stricken out] <sub>was</sub> agreed to nem. con.

On the question on the whole [“clause” stricken out] resolution [“as amended” stricken out] of Mr. Williamson as amended.

Mas. no. Con<sup>t</sup> no. N. J. no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no— Geo— no

#### Thursday, July 12. In Convention

Mr Gov<sup>r</sup> Morris moved to add to the clause empowering the Legislature to vary the Representation according to the principles of wealth & number of inhab<sup>ts</sup> a “proviso that [“direct” stricken out] taxation shall be in proportion to Representation”.

Mr Butler contended again that Representation s<sup>d</sup> be according to the full number of inhab<sup>ts</sup> including all the blacks; admitting the justice of Mr Gov<sup>r</sup> Morris’s motion.

Mr Mason also admitted the justice of the principle, but was afraid embarrassments might be occasioned to the Legislature by it. It might drive the Legislature to the plan of Requisitions.

Mr Gov<sup>r</sup> Morris, admitted that some objections lay ag<sup>st</sup> his motion, but supposed they would be removed by restraining

the rule to direct taxation. With regard to indirect taxes on exports & imports & on ["trade & " stricken out] consumption, the rule would be inapplicable. ["that this co" stricken out]. Notwithstanding what had been said to the contrary he was persuaded that the <sup>& consumption were</sup> imports, ["was" stricken out] <sup>nearly</sup> pretty equal throughout the Union.

General Pinkney ["would" stricken out] liked the idea. He thought it so just that it could not be objected to. But foresaw that if ["it" stricken out] the revision of the census was left to the discretion of Legislature, it would never be carried into execution. The rule must be fixed, and the execution of it enforced by the Constitution. He was alarmed <sup>what</sup> at what was said yesterday,<sup>x</sup> concerning the Negroes. <sup>by Mr</sup> Gov<sup>r</sup>. Morris. He was now again alarmed at what had been thrown out concerning the taxing of exports. S. Carol<sup>a</sup> has in one year <sup>all which was the fruit of the labor of her blacks</sup> exported to the amount of £600,000 Sterling. Will she be represented in proportion to this amount? She will not. Neither ought she then to be subject to a tax on it. He hoped a clause would <sup>be</sup> inserted in the system restraining the Legislature from a taxing Exports.

M<sup>r</sup> Wilson approved the principle, but could <sup>not</sup> see how it could be carried into execution; unless restrained to ["and" stricken out] direct taxation.

M<sup>r</sup> Gov<sup>r</sup> Morris having so varied his motion by inserting the word "direct". It pass<sup>d</sup> nem. con. as follows—"provided always that direct taxation ought to be proportioned to representation".

M<sup>r</sup> Davie, said it was high time now to speak out. He saw that it was meant by some gentlemen to deprive the Southern States of any share of Representation for their blacks. He was sure that N. Carol<sup>a</sup> would never confederate <sup>did</sup> on any terms that ["would" stricken out] not rate them at



least  $\frac{3}{5}$ . If the Eastern States meant therefore to exclude them altogether the business was at an end.

D<sup>r</sup> Johnson, thought that wealth and population were the true, equitable rule of representation; but he conceived that these two principles resolved themselves into one; population being the best measure of wealth. He concluded therefore that ye. numbers of people ought to be established as a rule, and that all descriptions including equally with the whites blacks, ought to fall within the computation. As various opinions had been expressed on the subject, he would <sup>move</sup> that a Committee might be appointed to take them into consideration and report thereon.

M<sup>r</sup> Gov<sup>r</sup> Morris. It has been said that it is high time to speak out. As one member, he would candidly do so. He came here to form a compact for the good of America. He was ready to do so with all the States: He hoped & believed that all would enter into such a Compact. If they would not he was ready to join with any States that would. But as the Compact was to be voluntary, it is in vain for the Eastern States to insist on what the South<sup>n</sup> States will never agree to. It is equally vain for the latter to require what the other States can never admit; and he verily belived the people ["of" written upon "the"] Pen<sup>a</sup> will never agree to the representation of Negroes. What can be derived by these States more than has been already proposed; that the Legislature shall from time to time <sup>r</sup>egulate Representation according to population & wealth.

Gen<sup>l</sup> Pinkney desired that the rule of wealth should be ascertained and not left to the pleasure of the Legislature; and that property in slaves should not be exposed to danger under a Gov<sup>t</sup> instituted for the protection of property.

The first clause in the Report of the first Grand Committee was postponed

Mr Elseworth. In order to carry into effect the principle <sup>to add to the last clause adopted by the House the words following</sup> established, moved [<sup>and that the rule of contribution by direct taxation for the support of the Government of the</sup> "that the whole number of white &  $\frac{3}{5}$ <sup>th</sup> of the black inhabitants should be the rule of representation U. States shall be the number of white inhabitants, and three fifths of every other description in until a more accurate rule shall be devised by the Legis- the several States, until some other rule that shall more accurately ascertain the wealth of the lature." " stricken out]

<sup>several States can be devised and adopted by the Legislature"</sup>

Mr Butler seconded the motion in order that it might be committed.

Mr Randolph was not satisfied with the motion. The danger will be revived that the <sup>majority of the</sup> Legislature may evade, [<sup>or prevent the rule so as to</sup> "the rule and" stricken out] perpetuate the power where it shall be lodged in the first instance. He proposed in lieu of Mr Elseworth's motion, "that in order to ascertain the <sup>in Representation</sup> alterations that may be required from time to time by changes in the relative circumstances of the States, a census shall be taken within two years [<sup>from</sup> "after" stricken out] the <sup>of the U. S.</sup> 1<sup>st</sup> meeting of the Gen<sup>l</sup> Legislature, and once within every <sup>all</sup> year afterwards, of the <sup>in the manner & ratio recommended by Congress in their resolution</sup> inhabitants according to the [<sup>rating the blacks at  $\frac{3}{5}$  of their number</sup> "Resolution of Cong<sup>s</sup>" stricken out] of the 1<sup>st</sup> day of Ap<sup>r</sup>. 1873; and that the Legislature shall arrange the Representation accordingly."—He urged strenuously, that express security ought to be provided for including slaves in the [illegible word stricken out] ratio of Representation. He lamented that such a species of property existed. But as it did exist the holders of it would require this security. It was perceived that the design was entertained by some of excluding slaves altogether; the Legislature therefore ought not to be left at liberty.

Mr Elseworth withdraws his motion & seconds that of Mr Randolph.

Mr Wilson observed that less umbrage would perhaps be

taken ag<sup>st</sup> an admission of the slaves into the Rule of representation, if it should be expressed as to make them indirectly only an ingredient in the rule, by saying that they should enter into the rule of taxation: and as representation was to be according to taxation, the end would be equally attained. He accordingly ["made the motion first as to a change of the expression" stricken out]

<sup>& was added</sup>  
moved, so as to alter the last clause adopted by the House, that together with the amendment proposed the whole should read as follows — provided always that the representation ought to be proportioned according to direct taxation, and in order to ascertain the alteration in the direct taxation which may be required from time to time by the changes in the relative circumstances of the States. Resolved that a census be taken within two years from the first meeting of the Legislature of the U. S. and once within the term of every <sup>18</sup> years afterwards of all the inhabitants of the U. S. in the manner and according to the ratio recommended by Congress in their Resolution of April 1783; and that the Legislature of the U. S. shall proportion the direct taxation accordingly."

[The words, "made the motion" &c., were first stricken out and over them was pasted a slip of paper containing the words from, "moved" to "accordingly".]

M<sup>r</sup> King. Altho' this amendment varies the aspect somewhat, he had still two powerful objections ag<sup>st</sup> tying down the Legislature to the rule of numbers. 1. they were at this time an uncertain index of the relative wealth of the States. 2. if they were a just index at this time it can not be supposed always to continue so. He was far from wishing to retain any unjust advantage whatever in one part of the Republic. If justice was not the basis of the connection it could not be of long duration. He must be short sighted indeed who does not foresee that whenever the Southern States shall be more numerous than the Northern, they can & will hold a language that will ["force" stricken out] awe them into justice. If they threaten to separate now in case injury be done them, will their threats be less urgent or effectual, when force ["shall" stricken out] shall back their demands. Even in the intervening period there will no point of time at which they will not be able to say, do us justice or we will <sup>urged the</sup> separate. He ["thought that" stricken out]

necessity of placing confidence to a certain degree in every Gov<sup>t</sup> and did not conceive that the proposed confidence as to a periodical readjustment of the representation exceeded that degree.

M<sup>r</sup> Pinkney moved to amend M<sup>r</sup> Randolph's motion so as to make "blacks equal to the whites in the ratio of representation". This he urged was nothing more than justice. The blacks are the labourers, the peasants of the Southern States: they are as productive of pecuniary resources as those of the Northern States. They add equally to the wealth, and considering money as the sinew of war, to the strength of the nation. It will also be politic with regard to the Northern States as taxation is to keep pace with Representation.

Gen<sup>l</sup> Pinkney moves to insert 6 years instead of two, as the computing from 1<sup>st</sup> meeting of ye Legis— period within which the first census should be taken. On this question for <sup>inserting six</sup> ["6 years" stricken out] instead of two" in the proposition of M<sup>r</sup>. Wilson, it passed in the ["negative" stricken out] affirmative

Mas<sup>ts</sup> no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. div<sup>d</sup> May<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. no.

On ["a" written upon "the"] question for filling the <sup>it passed in the negative</sup> blank for y<sup>e</sup> periodical census with 20 years, it

Mas<sup>ts</sup> no. C<sup>t</sup> ay. N. J. ay. P. ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

On ["a" written upon "the"] question for 10 years, it passed in the affirmative.

Mas. ay. Con<sup>t</sup> no. N. J. no. P. ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

On M<sup>r</sup> Pinkney's motion for rating blacks as equal to whites instead of as  $\frac{3}{5}$ .

Mas. no. Con<sup>t</sup> no. [D<sup>r</sup> Johnson ay] N. J. no. P<sup>a</sup> no. [3 ag<sup>st</sup> 2] Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo—ay.

as varied by Mr. Wilson being

Mr Randolph's proposition read for question on the whole.

Mr Gerry, urged that the principle of it could not be carried into execution as the States were not to be taxed as States. With regard to taxes in imports, he conceived they would be ["greater" stricken out <sup>more productive—</sup>] Where there were no slaves than where there were; the consumption being greater—

Mr Elseworth. In case of a poll tax there w<sup>d</sup> be no difficulty. But there w<sup>d</sup> probably be none. The sum allotted to a State may be levied without difficulty according to the plan used by the State in raising its own supplies. On the question on y<sup>e</sup> whole proposition;  
as proportioning representation to direct

taxation & both to the white &  $\frac{3}{4}$  of black inhabitants, & requiring a census within six years — & Mas. div<sup>d</sup> Con<sup>t</sup> ay. N. J. no. P<sup>d</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. within every ten years afterwards  
N. C. ay. S. C. div<sup>d</sup> Geo. ay.

### Friday, July 13. In Convention

It being moved to postpone the clause in the Report of the Committee of Eleven as to the originating of money bills in the first branch, in order to take up the following—"that in the 2<sup>d</sup> branch each State shall have an equal voice."

to add as amendment to the last clause "agreed to by the House" stricken out] agreed to by the

Mr Gerry, moved "That from the first meeting of the House of the U S Legislature till a census shall be taken all monies to be for supplying the public Treasury raised by direct taxation, shall be assessed on the inhabitants of the States, according to the <sup>number of their</sup> ["ratio of" stricken out] <sup>several</sup> [" " stricken out] <sup>respectively</sup> Representatives in the 1<sup>st</sup> branch ["of the Gen<sup>l</sup> Legislature" stricken out]". He said this would be as just before as after the Census; according to the general principle that taxation & Representation ought to go together.

Mr Williamson feared that N. Hamshire will have reason to complain. 3 members were allotted to her as a liberal

allowance for this reason among others, that she [<sup>might</sup>“does” stricken out] not suppose any advantage to have been taken of her absence. As she was still absent, and had no opportunity of deciding whether she would choose to retain the number on th[“e” written upon “at”] condition, of her being taxed in proportion to it, he thought the number ought to be reduced from three to two, before the question on M<sup>r</sup> G’s motion

M<sup>r</sup> Read could not approve of the proposition. He had observed he said in the Committee a backwardness in some of the members from the large States, to take their full proportion of Representatives.<sup>x</sup> He did not then see the motive. He now suspects it was to avoid their due share of taxation. He had no objection to a just & accurate [“apportionments” stricken out] adjustment of Representation & taxation to each other.

M<sup>r</sup> Gov<sup>r</sup> Morris & M<sup>r</sup> M.<sup>adison</sup> answered that the charge itself involved an acquittal, since notwithstanding the augmentation of the number of members allotted to Mas<sup>ts</sup> & V<sup>a</sup> the motion for proportioning the burdens thereto was made by a member from the former State & was approved by M<sup>r</sup> M [“from” stricken out] the latter who was on the Com<sup>e</sup>. M<sup>r</sup> Gov<sup>r</sup> Morris said that he thought P<sup>a</sup> had her share in 8 members; and he could not in candor ask for more. M<sup>r</sup> M. said that having always conceived that the difference of interest in the U. States lay not between the large & small, but the N. & South<sup>n</sup> States, and finding that the number of

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[<sup>number</sup>“x He alluded to the satisfaction expressed by Mr Gov<sup>r</sup>. Morris at the no. of 8 first allotted to Pen<sup>a</sup>, and the desire expressed by Mr. Madison, that instead of augmenting the no of V<sup>a</sup>, . N. Carol. [“which” illegible words stricken out] & S. Carol. might receive an augmentation, [illegible words and ‘S. States’ stricken out] The augmentation of the no of Mas<sup>ts</sup>, from 7 to 8 was made in y<sup>e</sup>. . at the instance of Mr. King, tho’ M<sup>r</sup>. Read seemed [‘to have’ stricken out] supposed the contrary” stricken out]



members allotted to the N. States was greatly superior, he should have preferred, an addition of two members to the S. States, to wit one to N & 1 to S. Carl<sup>a</sup> rather than of one member to Virg<sup>a</sup>. He liked the <sup>pre-sent</sup> motion, because it tended to moderate the views both of the opponents & advocates for rating very high, the negroes, [“as they are to augment the proportion of representatives for the States possessing them.” stricken out].

Mr Elseworth hoped the proposition would be withdrawn. It entered too much into detail. The general principle was already sufficiently settled. As fractions can not be regarded in apportioning the n<sup>o</sup>. of representatives, the rule will be unjust until an actual census shall be made. after that taxation may be precisely proportioned according to the principle established, to the number of inhabitants.

Mr Wilson hoped the motion would not be withdrawn. If it sh<sup>d</sup> it will be made from another quarter. The rule will be as reasonable & just before, as after a Census. As to fractional numbers, the Census will not destroy, but ascertain <sup>the</sup> them. And they will have same effect after as before the Census: for as he understands the rule, it is to be adjusted not to the number of inhabitants, but of Representatives.

Mr Sherman opposed the motion. He thought the Legislature ought to be left at liberty: in which case they would probably conform to the principles observed by Cong<sup>s</sup>.

Mr Mason did not know that Virg<sup>a</sup> would be a loser by the proposed regulation, but had some scruple as to the justice of it. He doubted much whether the conjectural rule which was to precede the census, would be as just, as <sup>it</sup> would be rendered by an actual census.

Mr Elseworth & Mr Sherman moved to postpone the <sup>of Mr. Gerry</sup> motion, on y<sup>e</sup> question, it passed in the negative

Mas. no. Con<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no.  
N. C. no. S. C. no. Geo. no.

Question on M<sup>r</sup> Gerry's motion, it passed in the negative, the States being equally divided.

Mas. ay. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no.  
N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gerry finding that the loss of the question had proceeded from an objection with some, to the proposed assessment of direct taxes on the inhabitants of the States, which might restrain the legislature to a poll tax, moved his proposition again, but so varied as to ["direct them" stricken out] authorize the assessment on the States, which <sup>w<sup>d</sup>. w<sup>d</sup>.</sup> leave the viz "that from the 1<sup>st</sup> meeting of the Legislature of the U. S. untill a census shall be taken, all monies for supplying the public Treasury by direct taxation shall be raised from the several States according to the number of their representatives respectively in the 1<sup>st</sup>. branch"

<sup>varied</sup>  
On this question it passed in the affirmative

mode ["of" stricken out] to the Legislature ["On this <sup>\*</sup>  
[("at this caret insert the words interlined" stricken out)]  
question" stricken out]

Mas. ay. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> div<sup>d</sup> Del. no. M<sup>d</sup> no. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay. ["So it passed" stricken out]

On the motion of M<sup>r</sup> Randolph, the vote of saturday last authorizing the Legisl<sup>re</sup> to adjust from time to time, the representation upon the principles of wealth & numbers of inhabitants was ["reconsidered by common Consent, in order to strike out wealth, and make ['it that' stricken out] the Resolution more coherent with the subsequent one requiring the periodical revisions to be adjusted to ['the' stricken out] numbers to wit, all the whites &  $\frac{3}{5}$  of the blacks" stricken out].

[The words, "reconsidered by common Consent" &c., were first stricken out and over them was pasted a slip of paper containing the words from, "reconsidered" &c., to, "provisions hereafter mentioned", in small type.] reconsidered by common consent in order to strike out "Wealth" and adjust the resolution to that requiring periodical revisions according to the number of whites & three fifths of the blacks: the motion was in the words following—"But as the present situation of the States may probably alter in the number of their inhabitants, that the Legislature of the U. S. be authorized from time to time to apportion the number of representatives: and in case any of the States shall hereafter or any two or more States united be divided or new States created within the limits of the U. S. the Legislature of U. S. shall possess authority to regulate the number of Representatives in any of the foregoing cases, upon the principle of their number of ["their" stricken out] inhabitants: according to the provisions hereafter mentioned."

Mr Gov<sup>r</sup> Morris opposed the alteration as leaving still<sup>an</sup> incoherence. If Negroes were to be viewed as inhabitants, ["the" stricken out] and the revision<sup>to</sup> was proceed on the principle of numbers of inhab<sup>ts</sup> they ought to be added in their entire number, and not in proportion<sup>the</sup> of  $\frac{3}{5}$ . If as property, the word wealth was right, and striking it out would produce the very inconsistency which it was meant to get rid of.—The train of business & the late turn which it had taken, had led him he said, into deep meditation on it, and He w<sup>d</sup> candidly state the result. A distinction had been set up & urged, between N<sup>n</sup> & South<sup>n</sup> States. He had hitherto considered this doctrine as heretical. He still thought the distinction groundless. He sees however that it is persisted<sup>in</sup> and that the South<sup>n</sup> Gentleman will not be satisfied unless they see the way open to their gaining a majority in the public Councils. The consequence of such a transfer of power ["to the" stricken out] from the maritime to the interior & landed interest will be such an oppression of commerce, that<sup>he</sup> shall be obliged to vote for y<sup>e</sup> vicious principle of equality in the 2<sup>d</sup> branch in order to provide some defence for the N. States ag<sup>st</sup> it. But to come now<sup>v</sup> to the point, either this distinction is fictitious or real: if fictitious let it be dismissed & let us proceed with due confidence. If it be real, instead of attempting to blend incompatible things, let us at once take a friendly leave of each other. There can be no end of demands for security if every particular interest is to be entitled to it. The Eastern States may claim it for their fishery, and for other objects, as the South<sup>n</sup> States claim it for their peculiar objects. ["In this struggle between the s<sup>d</sup>" stricken out]. In this struggle between the two ends of the Union, what part ought the Middle States in point of policy

to take: to join their Eastern brethren according to his ideas. If the South<sup>n</sup> States get the power into their hands, and be joined as they will be with the interior Country they will inevitably bring on a war with Spain for the Mississippi. This language is already held. The interior Country having no property nor interest exposed on the sea, will be little affected by such a war. He wished to know what security the North<sup>n</sup> & middle States will have ag<sup>st</sup> this danger. It has been said that N. C. S. C. and Georgia only will in a little time have a majority of the people of America. They must in that case include the great interior Country, and every thing was to be apprehended from their getting this power into their hands.

Mr Butler. The security the South<sup>n</sup> States want is that their negroes may not be taken from <sup>them</sup> which some gentlemen within or without doors, have a very good mind to do. It was not supposed that N. C. S. C & Geo. would have more people than all the other States, but many more relatively to the other States than they now have. The people & strength of America are evidently bearing Southwardly & S. westw<sup>dly</sup>.

Mr Wilson. If a general declaration would ["gratify" stricken out] satisfy any gentleman he had no indisposition to declare his sentiments. Conceiving that all men wherever placed have equal rights and are equally entitled to confidence, he viewed without apprehension the period when a few States should contain the superior number of people. The majority of people wherever found ought in all questions to govern the minority. If the interior of the Country should acquire this majority ["it" written upon "they"] will not have the right, but will avail <sup>only</sup> themselves of it whether we will or no. This jealousy misled the policy of G.

Britain with regard to America. The fatal maxims espoused by her were that the Colonies were growing too fast, and that their growth must be stinted in time. What were the consequences? first. enmity on our part, then actual separation. Like consequences will result on the part of the interior settlements, if like jealousy & policy be pursued on ours. Further, if numbers be not a proper rule, why is not some better rule pointed<sup>out</sup>. No one has yet ventured to attempt it. Cong<sup>s</sup> have never been able to discover a better. No State as far as he had heard, has suggested any other. In 1783, after elaborate discussion of a measure of wealth all were satisfied then as they are now that the rule of numbers, does not differ much from the combined rule of numbers & wealth. Again he could not agree that property was the sole or the primary object of Govern<sup>t</sup> & Society. The cultivation & improvement of the human mind was the most noble object. With respect to this object, as well as to other personal rights, numbers were surely the natural & [<sup>precise</sup> "proper" stricken out] measure of Representation. And with respect to property, [<sup>they could</sup> "it did" stricken out] not vary much from the precise measure. In no point of view however could the establishm<sup>t</sup> of numbers as the rule of representation in the 1<sup>st</sup> branch vary his opinion as to ["to proper mode of establishing" stricken out] the impropriety of letting a vicious principle into the 2<sup>d</sup> branch.—On the question to strike out wealth [<sup>& to make the change ["to alter" stricken out] as moved</sup> "& add according to provisions hereafter ment<sup>d</sup> as mov<sup>d</sup>." stricken out] by M<sup>r</sup> Randolph, it passed in the affirmative—

Mas. ay. Con<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. div<sup>d</sup> M<sup>d</sup> ay. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Reed moved to insert after the word—"divided," "or

enlarged by addition of territory" which was agreed to nem. con. [his object <sup>probably</sup> was to provide for an enlargem<sup>t</sup> of Delaware by annexing to it the Peninsula on the East Side of Chesapeake]

Adjourned

Saturday, July 14. in Convention

M<sup>r</sup> L. Martin called for the question on the whole report, including the parts relating to the origination of money bills, and the equality of votes in the 2<sup>d</sup> branch.

M<sup>r</sup> Gerry. wished the question should be put, <sup>before</sup> ["that" stricken out] that the attention of the House might be turned to the dangers apprehended from Western States. He was for admitting them on liberal terms, but not for putting ourselves into their hands. They will if they acquire power like all men, abuse it. They will oppress commerce, and drain our wealth into the Western Country. To guard ag<sup>st</sup> these consequences, he thought it necessary to limit the number ["in" stricken out] of new States to be admitted into the Union, in such a manner, that they should never to be able to outnumber the Atlantic States. He accordingly moved "that in order to secure the <sup>liberties of the</sup> States already confederated, the <sup>number of</sup> Representatives ["in" written upon "of"] the 1<sup>st</sup> branch <sup>of the States which shall hereafter be established</sup> ["of those hereafter admitted" stricken out] shall never exceed in number, the Representatives <sup>from such of</sup> ["of" stricken out] <sup>as shall accede to this confederation.</sup> the States ["already confederated" stricken out]

M<sup>r</sup> King, seconded the motion.

M<sup>r</sup> Sherman, thought there was no probability that the number of future States would exceed that of the Existing States.



If the event should ever happen, it was too remote to be taken into consideration at this time. <sup>Besides</sup> We are providing for our posterity, for our children & our grand Children, who would be as likely to be citizens of new Western States, as of the old States. On this consideration alone, we ought to make <sup>such</sup> no discrimination as was proposed by the motion.

Mr Gerry. If some of our children should remove, others will stay behind, and he thought it incumbent on us to provide for their interests. There was a rage for emigration from the Eastern States to the Western Country and <sup>he</sup> did not wish those remaining behind to be at the mercy of the Emigrants. Besides foreigners are resorting to that Country, and it is uncertain what turn things may take there.—On the question for agreeing to the Motion of Mr. Gerry, it passed in the negative.

Mas. ay. Con<sup>t</sup> no. N. J. no P<sup>a</sup> div<sup>d</sup> Del: ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

Mr Rutledge proposed to reconsider the ["clauses touching <sup>two propositions touching the originating of</sup> <sup>in the first</sup> ing" stricken out] money bills & the equality of votes in the second branch.

Mr Sherman was for the question on the whole at once. It was <sup>said</sup> <sup>he</sup> <sup>^</sup> a conciliatory plan, it had been considered in all its parts, a great deal of time had been spent on it, and if any part should now be altered, it would be necessary to go over the whole ground again.

Mr L. Martin urged the question on the whole. He did not like many parts of it. He did not like having two branches, nor the inequality of votes in the 1<sup>st</sup> branch. He <sup>was</sup> willing however to make trial of the plan, rather than do nothing.

Mr Wilson ["s" effaced] traced the progress of the Report

through its several stages, remarking y<sup>l</sup> on the question concerning an equality of votes, the House was divided, our Constituents had they voted as their representatives did, would have stood as  $\frac{2}{3}$  ag<sup>st</sup> the equality, and  $\frac{1}{3}$  only in favor of it. This fact would ere long be known, and will ["it" stricken out] appear that this fundamental point has been carried by  $\frac{1}{3}$  ag<sup>st</sup>  $\frac{2}{3}$ . What hopes will our Constituents entertain when they find that the essential principles of justice have been violated in the outset of the Government? As to the privilege of originating money bills, it was not considered by any as of much moment, and by many as improper in itself. He hoped both clauses w<sup>d</sup> be reconsidered. The equality of votes was a point of such critical importance, that every opportunity ought to be allowed, for discussing and collecting the mind of the Convention on it.

M<sup>r</sup> L. Martin denies that there were  $\frac{2}{3}$  ag<sup>st</sup> the equality of votes. The States that please to call themselves large, are the weakest in the Union. Look at Mas<sup>ts</sup>. Look at Virg<sup>a</sup>. Are they efficient States? He was for letting a separation take place if they desired <sup>it</sup>. He had rather there should be two Confederacies, than one founded on any other principle than an equality of votes ["at least" stricken out] in the 2<sup>d</sup> branch at least.

M<sup>r</sup> Wilson was not surprised that those who [<sup>say</sup> "have said" stricken out] that a minority does more than the majority should ["now" stricken out] say that th["e" written upon "at"] minority is stronger than the majority. He suppose["d" written upon "s"] the next assertion will be that they are richer also, though he ["did not ex" stricken out] hardly expected it would be persisted [<sup>in when</sup> "in if" stricken out] the States shall be called on for taxes & troops—

M<sup>r</sup> Gerry also animadverted on M<sup>r</sup> L. Martins remarks on the weakness of Mas<sup>ts</sup>. He favored the reconsideration with a view not of destroying the equality of votes; but of providing that the States should vote per capita, which he said would prevent the delays & inconveniences that had been experienced in Cong<sup>s</sup> and would [<sup>give</sup> "refuse" stricken out] a national aspect & Spirit to the management of business. He did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. It was the corner stone of the accomodation. If any member of the Convention had the exclusive privilege of making propositions, would any one say that ["he" stricken out] it would give him no advantage over other members. The Report was not altogether to his mind. But he would agree to it as it stood rather than throw it out altogether.

The reconsideration being tacitly agreed to

M<sup>r</sup> Pinkney moved that instead of an equality of votes the States should be represented in the 2<sup>d</sup> branch as follows: N. H. by. 2. members. Mas 4. R. I. 1. Con<sup>t</sup> 3. N. Y. 3. N. J. 2. Pa 4. Del 1. M<sup>d</sup> 3. Virg<sup>a</sup> 5. N. C. 3. S. C. 3. Geo. 2. making in the whole 36.

M<sup>r</sup> Wilson seconds the motion

M<sup>r</sup> Dayton. The smaller States can never give up their equality. For himself he would in no event yield that security for their rights.

M<sup>r</sup> Sherman urged the equality of votes not so much as a security for the small States; as for the State Gov<sup>ts</sup> which could not be preserved unless they were represented & had a negative in the Gen<sup>l</sup> Government. He had no objection to the members in the 2<sup>d</sup> b. voting per capita, as had been suggested by [M<sup>r</sup> Gerry]

<sup>Madison</sup> M<sup>r</sup>— concurred in th<sup>e</sup> [“e” written upon “is”] <sup>of Mr. Pinkney</sup> motion as a reasonable compromise.

M<sup>r</sup> Gerry said he should like the motion, but could see no hope of success. An accomodation must take place, and it was apparent from what had been seen that it could not do so on the ground of the motion. He was utterly against a partial confederacy, leaving other States to accede or not accede; as had been intimated.

M<sup>r</sup> King said it was always with regret that he differed from his colleagues, but it was his [“opinion” stricken out] duty to differ from [M<sup>r</sup> Gerry] on this occasion. He considered the proposed Government as substantially and formally, a General and National Government over the people of America. There <sup>never</sup> will be a case in which it will act as a federal Government on the States and not on the [“people” stricken out] individual Citizens. And is it not a clear principle that in a free Gov<sup>t</sup> those who are to be the objects of a Gov<sup>t</sup> ought to influence the operations of it? What reason can be assigned why the same rule of representation s<sup>d</sup> not prevail in the 2<sup>d</sup> branch as in the 1<sup>st</sup>? He could conceive none. On the contrary, every view of the subject that presented itself, seemed to require it. Two objections had been raised ag<sup>st</sup> [“the agre” <sup>it, drawn</sup> stricken out] 1. from the terms of the existing compact. 2. from a supposed danger to the smaller States.—As to the first objection he thought it inapplicable. According to the existing confederation, the rule by which the public burdens is to be apportioned is fixed, and must be pursued. In the proposed Govern<sup>t</sup> it cannot be fixed, because indirect taxation is to be substituted. The Legislature therefore will have full discretion to impose taxes in such modes & proportions as they may judge expedient.

As to the 2<sup>d</sup> objection, he thought it of as little weight. The Gen<sup>l</sup> Govern<sup>t</sup> can never wish to intrude on the State Govern<sup>ts</sup>. There could be no temptation. None had been pointed out. In order to prevent the interference of measures which seemed most likely to happen, he would have no objection to throwing all the State debts into the federal debt, making one aggregate debt of about 70,000,000, of dollars, and leaving it to be discharged by the Gen<sup>l</sup> Gov<sup>t</sup>—According to the idea of securing the State Gov<sup>ts</sup> there ought to be three distinct legislative branches. The 2<sup>d</sup> was admitted to be necessary, and was actually meant, to check the 1<sup>st</sup> branch, to give more wisdom, system, & stability to the Gov<sup>t</sup> and ought clearly [“to be” stricken out] as it was <sup>to</sup> operate on the people to be proportioned to them. For the third purpose of securing the States, there ought then to be a 3<sup>d</sup> branch, representing the States as such and [“watching over” <sup>guarding by equal votes</sup> stricken out] their rights & dignities. He could not pretend to be as thoroughly acquainted with his immediate Constituents as his colleagues, but it was his firm belief that Mas<sup>rs</sup> would never be prevailed on to yield to an equality of votes. In N. York (he was sorry to be obliged to say any thing relative to that State in the absence of its representatives, but the occasion required it), in N. York he had seen that the most powerful argument used by the considerate opponents to the grant of the Impost to Congress, was pointed ag<sup>st</sup> the vicious constitution of Cong<sup>s</sup> with regard to representation & suffrage. He was sure that no Gov<sup>t</sup> could last that was not founded on just principles. He preferred the doing of nothing, to an allowance of an equal vote to all the States. It would be better he thought to submit to a little more confusion & convulsion, than to submit to such an evil. It was difficult to say what

the views of different Gentlemen might be. Perhaps there might be some who thought no Government co-extensive with the U. States could be established with a hope of its answering the purpose. Perhaps there might be other ["views" stricken out] fixed opinions incompatible with the object we were pursuing. If there were, he thought it but candid that Gentlemen would speak out that we might understand one another.

Mr Strong. The Convention had been much divided in opinion. In order to avoid the consequences of it, an accommodation had been proposed. A Committee had been appointed; and though some of the members were averse to an equality of votes, a Report has been made in favor of it. It is agreed on all hands that Congress are nearly at an end. If no Accomodation takes place, the["y" stricken out] Union itself must soon be dissolved. It has been suggested that if <sup>we</sup> can not come to any general agreement the principal States may form & recommend a scheme of Government. But will the small States in that case ever accede it. Is it probable that the large States themselves will under such circumstances embrace and ratify it. He thought the small States had a considerable concession in the article of money bills, and that <sup>they</sup> might naturally expect some concessions on the other side. From this view of the matter he was compelled to give his vote for the Report taken all together.

Mr Madison expressed his apprehensions that if the proper foundation of Government was destroyed, by substituting an equality in place of a proportional Representation, ["that no" stricken out] <sup>no proper</sup> superstructure would be raised, ["upon it we ought to be raised", illegible word, "and that would either



fulfill the public wishes, or a credit to the Convention " stricken out]. If the small States really wish["ed" stricken out] for a [<sup>Government</sup> "Constitution that would be" stricken out] armed with the powers necessary to secure their liberties, and to enforce obedience on the larger members as well as on themselves he could not help thinking them extremely mistaken in the<sup>ir</sup> means ["they were pursuing" stricken out]. He reminded them of the consequences of ["forming the" stricken out] <sup>laying the existing</sup> confederation on improper principles. All the principal parties to its compilation, joined <sup>immediately</sup> in mutilating & fettering the Govern<sup>mt</sup> in such a manner that it has disappointed every hope ["that had been" stricken out] placed on it. He appealed to the doctrine & arguments used by themselves on [<sup>a former occasion</sup> "the question" stricken out]. It had been [<sup>very properly observed by</sup> "obs<sup>d</sup> by" stricken out] [M<sup>r</sup> Patterson] <sup>x</sup>that Representation was an expedient by which the meeting of the people themselves was rendered unnecessary; and that the repre-<sup>the votes which their</sup> sentatives ought therefore to bear a proportion to ["their", illegible word stricken out], constituents if ["that ally" stricken out] convened, would respectively have. Was not this remark as applicable to one branch of the Representation as to the other? But it had been said that the Govern<sup>t</sup> <sup>in its operation</sup> would <sup>be</sup> partly federal, partly national; that altho' in the latter respect the Representatives of the people ought to be in proportion to the people: yet in the former it ought to be according to the number of States. If there was any ["force or ability" stricken out] <sup>solidity</sup> in this distinction he was ready to abide by it, if there was none it ought to be abandoned. In all cases where the Gen<sup>l</sup> Govern<sup>t</sup> [<sup>is</sup> "was" stricken out] to act ["on the exist" stricken out] on the people, let the people be represented and the votes be proportional. In all cases where

the Govern<sup>t</sup> ["was" stricken out]<sup>is</sup> to act on the States as such, in like manner as Cong<sup>s</sup><sup>now</sup> act on them, let the States be represented & ["let" stricken out] the votes be equal. This was the true ground of compromise if there was any ground at all. But he denied that there was any ground. He called for a single instance in which the Gen<sup>l</sup> Gov<sup>t</sup> was not to operate on the people individually. The practicability of making laws, with coercive sanctions, for the States as political bodies, had been exploded on all hands. He observed that the people of the <sup>large</sup> States would in some way or other secure to themselves a weight proportioned to the importance accruing from their superior numbers. If they could not effect it by a proportional representation in the Gov<sup>t</sup> they would probably ["accede" stricken out] accede to no Gov<sup>t</sup> which did not in great measure depend for its efficacy on their voluntary cooperation; in which case they would indirectly secure their object. The existing confederacy proved that where the acts of the Gen<sup>l</sup> Gov<sup>t</sup> were to be executed by the particular Gov<sup>ts</sup> the latter had a weight in proportion to their importance <sup>["respectively" stricken out]</sup> ["of their complying with the general acts" stricken out] No one would say that either in Cong<sup>s</sup> or out of Cong<sup>s</sup> Delaware had equal weight with Pensylv<sup>a</sup>. If the latter was to supply ten times as much money as the former, and no compulsion could be used, it was of ten times <sup>more</sup> <sup>voluntarily</sup> <sup>Confederacy</sup> ["the" stricken out] importance, that she should furnish the supply. In the Dutch ["Republic" stricken out] the votes of the Provinces were equal. But Holland, which supplies about half the money, governed [illegible words stricken out] the whole republic. He enumerated ["again" effaced] the objections ag<sup>st</sup> an equality of votes in the 2<sup>d</sup> branch, not-

withstanding the <sup>por</sup>portional representation ["in" written upon  
 "of"] the first. 1. ["it" stricken out] <sup>the minority</sup> could negative the  
 will of the majority of the people. 2. they could extort  
 measures by making them a condition of their assent to  
 other necessary measures. 3. they could obtrude measures  
 on the majority by virtue of the peculiar powers which would  
 ["probably" stricken out] be vested in the Senate. 4. the  
 evil instead of being cured by time, would increase with  
 every new State that should be admitted, as they must all be  
 admitted on the principle of equality. 5. the perpetuity it  
 would give to the North<sup>n</sup> ag<sup>st</sup> the South<sup>n</sup> Scale . It seemed  
 now to be pretty well understood that the real difference of  
 interests lay, not between the large & small ["&" stricken  
 out] but <sup>between</sup> N. & South<sup>n</sup> States.. The institution of slavery  
 & its consequences formed the line of discrimination.  
 There were 5 States on the South, 8 on the North<sup>n</sup> side of  
 this <sup>line</sup> . ["In case" stricken out] <sup>should</sup> a proport<sup>l</sup> representation  
 ["sh<sup>d</sup>" stricken out] take place it was true, the N. side  
 ["would" written upon "will"] <sup>["indeed" stricken out]</sup> still outnumber the other:  
 but not in the same degree, at this time; and every day  
 would tend towards an equilibrium.

<sup>would add a few words only.</sup>  
 M<sup>r</sup> Wilson If equality in the 2<sup>d</sup> branch was an error that  
 time would correct, he <sup>being sensible that perfection was unattainable in any plan</sup> should be less anxious to exclude it :  
 but being a fundamental and a perpetual error, it ought by  
 all means to be avoided. A vice in the Representation, like  
 an error in the first concoction, must be followed by disease,  
 convulsions, and finally death itself. <sup>justice of the</sup> The general principle  
 of proportional representation has not in argument at least  
 been yet contradicted. But it is said that a departure from  
 it so far as to give the States an equal vote in one branch of

the Legislature is essential to their preservation. He had considered this position maturely, but could not see its application. That the States ought to be preserved he admitted. But does it follow that an equality of votes is necessary for the purpose? Is there any reason to suppose that if ["the power should fall into the" stricken out] their preservation should depend more on the large than on the small States, the security of the States ag<sup>st</sup> the Gen<sup>l</sup> Government would be diminished? Are the large States less attached<sup>to</sup> their existence, more ["fond of" stricken out] likely to commit suicide, than the small? An equal vote then is not necessary as far as he can conceive: and is liable, among other objections to this insuperable one: The great fault of the existing Confederacy is its inactivity. It has never been a complaint ag<sup>st</sup> Cong<sup>s</sup> that they governed overmuch. The complaint has been that they have governed too little. To remedy this defect w["e" written upon "as"] were sent here. Shall we effect the cure by establishing an equality of votes, as is proposed? no; this very equality carries us directly to Congress: to the system which it is our duty to rectify. The small States cannot indeed act, ["but" stricken out] by virtue of this equality, but they may controul the Gov<sup>t</sup> as they have done in Cong<sup>s</sup>. This very measure is here prosecuted by a minority of the people of America. Is then the object of the Convention likely to be accomplished in this way? Will not our Constituents say? we sent you to form an efficient Gov<sup>t</sup> and you have given us one more complex indeed, but having all the weakness of the former Govern<sup>t</sup>. He was anxious for uniting all the States under one Govern<sup>t</sup>. He knew there were some respectable men who preferred three confederacies, united by offensive

& defensive alliances. Many things may be plausibly said, some things may be justly said, in favor of such a project. He could not however concur in it himself; but he thought nothing so pernicious as bad first principles.

M<sup>r</sup> Elsworth asked two questions one of M<sup>r</sup> Wilson, whether he had ever seen a good measure fail in Cong<sup>s</sup> for want of a majority of States in its favor? He had himself never known such an instance: the other of M<sup>r</sup> <sup>Madison</sup> whether a negative lodged with a majority of the States even the smallest, could be more dangerous than [“that w” stricken out] <sup>the qualified</sup> negative proposed to be lodged in a single Executive Magistrate, who must be taken from some one State?

M<sup>r</sup> Sherman, signified that his expectation was that the Gen<sup>l</sup> Legislature would in some cases act on the federal principle, of requiring quotas. But he thought it ought to be empowered to carry their <sup>own</sup> plans into execution, if the States should fail to supply their respective quotas.

On the question for agreeing to M<sup>r</sup> Pinkney's motion for allowing N. H. 2. Mas. 4. &c—  
it passed in the negative

Mas. no. M<sup>r</sup> King ay. M<sup>r</sup> Ghorum absent. Con<sup>t</sup> no. N. J. no. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. ay Geo. no.

Adjourned,

Monday, July 16. In Convention

On the question for agreeing to the whole <sup>Report as amended &</sup> including the equality of votes in the 2<sup>d</sup> branch. it passed in the Affirmative

Mas. divided M<sup>r</sup> Gerry, M<sup>r</sup> Strong. ay. M<sup>r</sup> King M<sup>r</sup>

Ghorum no. Con<sup>t</sup> ay. N. J. ay. Pen<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup>  
 no. N. C. ay. <sup>Mr. Spaight no</sup> S. C. no. Geo. no.—[Here enter the whole in the words entered  
 in the Journal July <sup>16</sup> ["16" stricken out]]

[Upon the words,  
 "[Here enter the  
 whole in the words  
 entered in the Jour-  
 nal July <sup>16</sup>  
 stricken out]]", was  
 pasted a slip of pa-  
 per upon which the  
 words from, "The  
 whole, thus passed",  
 to, "have an equal  
 vote", printed here  
 in small type, were  
 written.]

The whole, thus passed is in the words following viz "Resolved that in the original forma-  
 tion of the Legislature of the U. S. the first branch thereof shall consist of sixty five members, of  
 "which number N. Hampshire shall send 3. Mass<sup>ts</sup>. 8. Rh. I. 1. Conn<sup>t</sup>. 5. N. Y. 6. N. J. 4. Pen<sup>a</sup>. 8.  
 "Del. 1. Mary<sup>d</sup>. 6. Virg<sup>a</sup>. 10. N. C. 5. S. C. 5. Geo. 3.—But as the present situation of the States may  
 "probably alter in the number of their inhabitants, the Legislature of the U. S. shall be authorized  
 "from time to time to apportion the number of Rep<sup>s</sup>.; and in case any of the States shall hereaf-  
 "ter be divided, or enlarged by, addition of territory, or any two or more States united, or any new  
 "States created with the limits of the U. S. the Legislature of the U. S. shall possess authority to  
 "regulate the number of Rep<sup>s</sup>. in any of the foregoing cases, upon the principle of their number  
 "of inhabitants, according to the provisions hereafter mentioned, namely—provided always that  
 "representation ought to be proportioned according to direct taxation; and in order to ascertain  
 "the alteration in the direct taxation, which may be required from time to time by the changes in  
 "the relative circumstances of the States <sup>P</sup>Resolved that a ["ces" stricken out] Census be taken  
 "within six years from the 1<sup>st</sup> meeting of the Legislature of the U. S. and once within the term of  
 "every 10 years afterwards of all the inhabitants of the U. S. in the manner and according to the  
 "ratio recommended by Congress in their Resolution of April 18. 1783. and that the Legislature  
 "of the U. S. shall proportion the direct taxation accordingly <sup>["es" effaced]</sup> <sup>P</sup>Resolved, that all bills for raising  
 "or appropriating money, and for fixing the salaries of officers of the Gov<sup>t</sup>. of the U. S. shall origi-  
 "nate in the first branch of the Legislature of the U. S. and shall not be altered or amended in 2<sup>d</sup>.  
 "branch. and that no money shall be drawn from the public Treasury, but in pursuance of appro-  
 "priations to be originated in the 1<sup>st</sup>—branch. <sup>P</sup>Resolv<sup>d</sup>. that in the 2<sup>d</sup>. branch of the Legislature  
 "of the U. S. each State shall have an equal vote"

The 6<sup>th</sup> Resol: in the Report from the Com<sup>s</sup> of the whole  
 House, which had been postponed in order to consider the  
 7 & 8<sup>th</sup> Resol<sup>ns</sup>; was now resumed. see the Resol<sup>n</sup>

The 1<sup>st</sup>. member "That the Nat<sup>l</sup> Legislature ought, to <sup>possess</sup> ["enjoy"  
 stricken out] the Legislative Rights vested in Cong<sup>s</sup> by the  
 Confederation." was Agreed to nem. Con.

The next "And moreover to legislate in all cases to which the  
 separate States are incompetent; or in which the harmony of  
 the U. S. may be interrupted by the exercise of individual  
 legislation," <sup>being</sup> read for a question

M<sup>r</sup> Butler calls for some explanation ["of" written upon  
 "as"] the extent of this power; particularly of the word  
incompetent. The vagueness of <sup>the</sup> terms rendered it impossi-  
 ble for ["m" stricken out] any precise judgment to be formed.



M<sup>r</sup> Ghorum. The vagueness of the terms constitutes the propriety of them. We are now establishing general principles, to be extended hereafter into details which will be precise & explicit.

M<sup>r</sup> Rutledge, urged the objection started by M<sup>r</sup> Butler and moved that the clause should be committed to the end that a specification of the powers comprised in the general terms, might be reported.

On the question for a commitment, the States were equally divided

Mas. no. Con<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>ra</sup> ay. N. C. no. S. C. ay. Geo. ay: So it was lost.

M<sup>r</sup> Randolph. The vote of this morning [involving an equality of ["votes" stricken out] <sup>suffrage</sup> in 2<sup>d</sup> branch] had embarrassed the business extremely. All the powers given <sup>in</sup> the Report from Com<sup>c</sup> of the whole, were founded on the supposition that a Proportional representation was to prevail in both branches of the Legislature—When he came here this morning his purpose was to have offered some propositions that might if possible have united a great majority of votes, <sup>particularly</sup> and might provide ag<sup>st</sup> the danger suspected on the part of the smaller States, by enumerating the cases in which it might lie, and allowing an equality of votes in such cases.‡ But finding from the preceding vote that they persist in demanding an equal vote in all cases, ["and" stricken out] that they have succeeded in obtaining it, and that N. York if present would probably be on the same side, he could not but think we were unprepared to discuss this subject further. ["since" stricken out] It will probably be in vain to come to any final decision with a bare majority on either side For these reasons he wished the Con["v" written upon "j"]

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‡ see the paper in appendix communicated by M<sup>r</sup>. R. to J. M. July 10.

ention might adjourn, that the large States might consider the steps proper to be taken in the present solemn crisis of the business, and that the small States might also deliberate on the means of conciliation.

M<sup>r</sup> Patterson, thought with M<sup>r</sup> R. that it was high time for the Convention to adjourn that the rule of secrecy ought to be rescinded, and that our Constituents should be consulted. No conciliation could be admissable on the part of the smaller States on any other ground than that of an equality of votes in the 2<sup>d</sup> branch. If M<sup>r</sup> Randolph would reduce to form his motion for an adjournment sine die, he would second it with all his heart.

Gen<sup>l</sup> Pinkney wished to know of M<sup>r</sup> R. whether he meant an adjournment sine die, or only an adjournment for the day. If the former was meant, it differed much from his idea. He could not think of going to S. Carolina, and returning again to this place. Besides it was chimerical to suppose that the States if consulted would ever accord separately, and beforehand.

M<sup>r</sup> Randolph, had never entertained an idea of an adjournment sine die; & was sorry that his meaning had been so readily & strangely misinterpreted. He had in view merely ["that" stricken out] an adjournment till tomorrow in order that some conciliatory experiment might if possible be devised, and that in case the smaller States should continue to hold back, the larger might then take such measures, he would not say what, as might be necessary.

M<sup>r</sup> Patterson seconded the adjournment till tomorrow, as <sup>an opportunity</sup> ["it" stricken out] seemed to be wished by the larger States to deliberate further on conciliatory expedients.

On the question for adjourning till tomorrow, the States were equally divided.

Mas. no. Con<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N. C. ay. S. C. no. Geo. no. So it was lost.

M<sup>r</sup> Broome thought it his duty to declare his opinion ag<sup>st</sup> an adjournment sine die, as had been urged by M<sup>r</sup> Patterson. Such a measure he thought would be fatal. Something must be done by the Convention tho' it should by a bare majority.

M<sup>r</sup> Gerry observed that Mas<sup>ts</sup> was opposed to an adjournment, because they saw no new ground of compromise. But as it seemed to <sup>be</sup> the opinion of so many States that a trial sh<sup>d</sup> be made, the State would now concur in the adjournm<sup>t</sup>

M<sup>r</sup> Rutledge could see no need of an adjourn<sup>t</sup> because he could see no chance of a compromise. The little States were fixt. They had repeatedly & solemnly declared themselves to be so. All that the large States then had then to do, was to decide whether they would yield or not. For his part he conceived that altho' we could not do what we thought best, in itself, we ought to do something. Had we not better keep the Gov<sup>t</sup> up a little longer, hoping that another Convention will supply our omissions, than abandon every thing to hazard. Our Constituents will be very little satisfied with us if we take the latter course.

M<sup>r</sup> Randolph & M<sup>r</sup> King renewed the motion to adjourn till tomorrow.

On the question Mas. ay. Con<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. div<sup>d</sup>

Adjourned

On the morning following before the hour of the Convention a number of the members ["from" stricken out] from the larger States, by common agreement met for the purpose of

consulting on the proper steps to be taken in consequence of the vote in favor of an equal Representation in the 2<sup>d</sup> branch, and the apparent inflexibility of the smaller States on that point—Several members from the latter States also attended. The time was wasted in vague conversation [“on” written upon “of”] the subject, without any specific proposition or agreement. It appeared indeed that the opinions of the <sup>who disliked the equality of votes</sup> members [“varied much” <sup>differed so</sup> stricken out] much as to the importance of that point, and as to the policy of risking <sup>a failure of</sup> any general act of the Convention by inflexibly opposing it [“s” stricken out]. Several of them supposing that no good Government could or would be built on that foundation, and that as a division of the Convention <sup>into two opinions was unavoidable</sup> [“was to prevail,” stricken out] it would be better that the side comprising the principal States, and a majority of the people of America, should propose a scheme of Gov<sup>t</sup> to the States, than that a scheme should be proposed on the other side, would have concurred in a firm opposition to the smaller States, and in a separate recommendation, if eventually necessary. Others <sup>yield</sup> seemed inclined to [“concur” stricken out] to the smaller States, and to concur in such an Act however imperfect & exceptionable, as might be agreed on by the [“entire” stricken out] Convention as a body, tho’ decided by a bare majority of States and by a minority of the people of the U. States. It is probable that the result of this consultation <sup>satisfied</sup> [“seemed to” stricken out] the smaller States that they had nothing to apprehend from a Union of the larger, in any plan whatever ag<sup>st</sup> the equality of votes in the 2<sup>d</sup> branch.

Tuesday July 17. in Convention

Mr Governor Morris moved to reconsider the whole Resolution agreed to yesterday concerning the constitution of the 2 branches of the Legislature. His object was to bring the House to a consideration <sup>in the abstract</sup> of the powers necessary to be vested in the general Government. It had been said, Let us know how the Gov<sup>t</sup> is to be modelled, and then we can determine what powers can be properly given to it. He thought the most eligible course was, first to determine on the necessary powers, and then <sup>so</sup> to modify the Govern<sup>t</sup> as that it might be justly & properly enabled to administer them. He feared if we proceeded to a consideration of the powers, whilst the vote of yesterday including an equality of the States in the 2<sup>d</sup> branch, remained in force, a reference to it, either mental or expressed, would mix itself with the merits of every question concerning the powers.—this motion was not seconded. [It was probably approved by several members, [“but they <sup>who either [“probably” stricken out]</sup> either” stricken out] despaired of success, or were apprehensive that the attempt would inflame the jealousies of the smaller States.]

The 6<sup>th</sup> Resol<sup>n</sup> in the Report of the Com<sup>e</sup> of the whole <sup>relating to the powers</sup>, which had been postponed in order to consider the 7 & 8<sup>th</sup> relating to the Constitution of the, Nat<sup>l</sup> Legislature, was now resumed—

Mr Sherman observed that it would be difficult to draw the line between the powers of the Gen<sup>l</sup> Legislatures, and those to be left with the States; [“and” stricken out] that he did not like the definition contained in the Resolution, and proposed in place of the words “of individual legislation” <sup>line 4</sup>, inclusive, to insert “to make laws binding on the people of <sup>United</sup> the States in all cases <sup>which may concern the common interests of the Union</sup> [‘of common concern’ stricken out];

the Government of the individual States in any matters of internal police which respect the Gov<sup>t</sup>. but not to interfere with [<sup>of such States only, and wherein the General</sup> 'the internal police of the States where the' stricken out] welfare of the U. States ['is' written upon 'was'] not concerned."

M<sup>r</sup> Wilson 2<sup>d</sup>ed the ["amend" written upon "motion" ment as better expressing the general principle.

M<sup>r</sup> Gov<sup>r</sup> Morris opposed it. The internal police, as it would be called & understood by the States ought to be infringed in many cases, as in the case of paper money & other tricks by which Citizens of other States may be affected.

M<sup>r</sup> Sherman, in explanation of his ideas read an enumeration of powers, including the power of levying taxes on trade, but not the power of direct taxation. ["which" stricken out]

M<sup>r</sup> Gov<sup>r</sup> Morris remarked the omission, and inferred that the deficiencies of taxes on consumption, it must have been the meaning of M<sup>r</sup> Sherman, that the Gen<sup>l</sup> Gov<sup>t</sup> should recur to quotas & requisitions, which are subversive of the idea of Gov<sup>t</sup>.

M<sup>r</sup> Sherman acknowledged that his enumeration did not include direct taxation. Some provision he supposed must be made for supplying the deficiency of other taxation, but he had not found any.

On Question ["for postponing in order to take" stricken out] on M<sup>r</sup> Sherman's motion, it passed in the negative

Mas. no. Con<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Bedford moved that the [<sup>2<sup>d</sup>, number of Resolution 6.</sup> "clause" stricken out] be so altered as to read "<sup>and moreover</sup> to legislate in all cases for the general interests of the Union, and also in those to which the States are separately incompetent," or in which the harmony of the U. States may be interrupted by the exercise of individual Legislation".



M<sup>r</sup> Gov<sup>r</sup> Morris 2<sup>ds</sup> the motion.

M<sup>r</sup> Randolph. This is a formidable idea indeed. It involves the power of violating all the laws and constitutions of the States, and of intermeddling with their police. The last member of the sentence is <sup>also</sup> superfluous, being included in the first.

M<sup>r</sup> Bedford. It is not more extensive or formidable than the clause as it stands: no State being separately competent to legislate for the general interest of the Union.

On question for agreeing to M<sup>r</sup> Bedford's motion, it passed in the affirmative.

Mas. ay. Con<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. ay. S. C. no. Geo. no.

On the sentence as amended, it passed in the affirmative.

Mas. ay. Con<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. no.

The next—“To negative all laws passed by the several States contravening in the opinion of the Nat. Legislature the articles of Union, or any treaties subsisting under the authority of ye Union” stricken out] [ & “see Resol. 6. as reported from Com of whole”

M<sup>r</sup> Gov<sup>r</sup> Morris opposed this power as likely to be terrible to the States, and not necessary, if sufficient <sup>Legislative</sup> authority should be given to the Gen<sup>l</sup> Government.

M<sup>r</sup> Sherman thought it unnecessary, as the Courts of the States would not consider as valid any law contravening the Authority of the Union, and which the legislature would wish to be negated.

M<sup>r</sup> L. Martin considered the power as improper & inadmissible. Shall all the laws of the States be sent up to the Gen<sup>l</sup> Legislature before they shall be permitted to operate?

M<sup>r</sup> Madison, considered the negative of the laws of the States as essential to the efficacy & security of the Gen<sup>l</sup> Gov<sup>t</sup>. The

necessity of a general Gov<sup>t</sup> proceeds from the propensity of the States to pursue their particular interests in opposition to the general interest. This <sup>propensity</sup> will continue to disturb the system, unless effectually controuled. Nothing short of a negative on their laws will controul it. They ["can" written upon "will"] pass laws which will accomplish their injurious objects before they can be repealed by the Gen<sup>l</sup> Legislat<sup>re</sup> <sup>be</sup> or set aside by the National Tribunals. Confidence can <sup>not</sup> be put in the State Tribunals as guardians of the National authority and interests. In all the States these are more or less depend<sup>t</sup> on the Legislatures. In [<sup>["Rh. Is<sup>d</sup>. &" stricken out]</sup> "R<sup>d</sup> Is<sup>d</sup> &" stricken out] Georgia they are appointed annually by the Legislature. In R. Island the Judges who [<sup>["refuse" stricken out]</sup> refused to execute an unconstitutional law were displaced, and others substituted, by the Legislature who would be [<sup>["willing" written upon "voluntary", stricken out]</sup> instruments of the wicked & arbitrary plans of their masters. A power of negating the improper laws of the States is at once the most mild & certain means of preserving the harmony of the system. Its utility is sufficiently displayed in the British System. Nothing could maintain the harmony & subordination of the various parts of the empire, but the prerogative by which the Crown, stifles in the birth every Act of every part tending to discord or encroachment. It is true the prerogative is [<sup>sometimes misapplied thro' ignorance</sup> "sometimes sometimes sometimes" stricken out] or a [<sup>partiality</sup> "preference" stricken out] to one particular part of y<sup>e</sup> empire: but we have [<sup>not the same ["less" stricken out]</sup> "little" stricken out] reason to fear such misapplications in our System. ["as" illegible words, "in the British", illegible words, "amend by the salutary power of the negative" stricken out]. As to the sending all laws up to the Nat<sup>l</sup>. Legisl: that might be rendered unnecessary by some emanation of the power into the States, so far at least, as to give a temporary effect to laws of immediate necessity

Mr Gov<sup>r</sup> Morris was more & more opposed to the negative. The proposal of it would disgust all the States. A law that ought to be negatived ["may" stricken out] will be set aside in the Judiciary departm<sup>t</sup> and if that security should fail; may be repealed by a Nation<sup>l</sup> law.

Mr Sherman. Such a power involves a wrong principle, to wit, that a law of a State contrary to the articles of the Union, would if not negatived, be valid & operative.

Mr Pinkney urged the necessity of the Negative.

On the question for agreeing to the power of negativing laws of States &c." it passed in the negative.

Mas. ay. C<sup>t</sup> no. N. J. no. Del. no. M<sup>d</sup> no. Va. ay. N. C. ay. S. C. no. Geo. no.

["Mr L. Martin moved 'that all the Legislative acts & Treaties made by virtue of the Articles of Union, shall be the supreme law of the States, and as such shall be observed by their Courts &c.'" stricken out] ["The motion was agreed to nem. con."]

Mr. Luther Martin moved the following resolution "that the Legislative acts of the U. S. made by virtue & in pursuance of the articles of Union, and all treaties made & ratified under the authority of the U. S. shall be the supreme law of the respective States, as far as those acts or treaties shall relate to the said States, or their Citizens and inhabitants— & that the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective laws of the individual States to the contrary notwithstanding" which was agreed to nem: con:

[The words, "Mr. L. Martin moved" &c., were first stricken out and over them was pasted a slip of paper containing the words from, "Mr. Luther Martin", to, "agreed to nem: con:", here printed in small type.]

9<sup>th</sup> Resol: "that Nat<sup>l</sup> Executive consist of a single person." Ag<sup>d</sup> to nem. con.

"To be chosen by the National Legisl:"

Mr Govern<sup>r</sup> Morris was pointedly ag<sup>st</sup> his being so chosen. He will be the mere creature of the Legisl: if appointed & impeachable by that body. He ought to be elected by the people at large, by the freeholders of the Country. That difficulties attend this mode, he admits. But they have been found superable in N. Y. & in Con<sup>t</sup> and would he believed be

found so, in the case of an Executive for the U. States. If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man, if he might so speak, of continental reputation. If the Legislature elect, it will be the work of intrigue, of cabal, and of faction; it will be like the election of a pope by a conclave of cardinals; real merit will rarely be the title to the appointment.

He moved to strike out "National Legislature" & insert <sup>"citizens of U. S."</sup> ["'people'" stricken out]

Mr Sherman thought that the sense of the Nation would be better expressed by the Legislature, than by the people at large. The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the Legislature A majority <sup>of voices may be made necessary to constitute an election.</sup> ["may be required in favor of the person elected" stricken out].

Mr Wilson. two arguments have been urged ag<sup>st</sup> an election of the Executive Magistrate by the people. 1 the example of ["the" stricken out] Poland where an Election <sup>of the</sup> supreme Magistrate is attended with the most dangerous commotions. The cases he observed were totally dissimilar. The Polish nobles have resources & dependents which enable them to appear in force, and to threaten the Republic as well as each other. In the next place the ["y" stricken out] electors all assemble in one place: which could not be the case with us. The 2<sup>d</sup> arg<sup>t</sup> is that a majority of the people would never concur. It might be answered that the concurrence of a majority of people is not a necessary principle of election, nor required as such in any of the States. But allowing the objection all its force, it may be obviated by the expedient

used in Mas<sup>ts</sup> where the Legislature by majority of voices, decide in case a majority of people do not concur in favor of one of the candidates. This would restrain the choice to a good nomination at least, and prevent in a great degree intrigue & cabal. A particular objection <sup>with him</sup> ag<sup>st</sup> an absolute election by the Legisl<sup>re</sup> was that the Exec: in that case would be too dependent to stand the mediator between the intrigues & sinister views <sup>^</sup> of the Representatives and the general liberties & interests of the people.

M<sup>r</sup> Pinkney did not expect this question would again have been brought forward; An Election by the people ["is" stricken out] <sup>being</sup> liable to the most obvious & striking objections. They will be led by a few active & designing men. The most populous States by combining in favor of the same individual will be able to carry their points. The Nat<sup>l</sup> Legislature being most immediately interested in the laws made by themselves, will be most attentive to the choice of <sup>a</sup> fit man to carry them properly into execution.

M<sup>r</sup> Gov<sup>r</sup> Morris. <sup>in case of an election by the people</sup> It is said that the populous States will combine & elect whom they please. Just the reverse. The people of such States cannot combine. If their be any combination it must be among their representatives in the Legislature. It is said the people will be led by a few designing men. This might <sup>happen</sup> in a small district. It can never happen <sup>out</sup> through["t" stricken out] the continent. In the election of a Gov<sup>r</sup> of N. York, it sometimes is the case in particular spots, that the activity & intrigues of little partizans are successful, but the general voice of the State is never influenced by such artifices. It is said the multitude will be uninformed. It is true they ["would" written upon "will"] be uninformed of what passed in the Legislative Con["c" writ-

ten upon "g"]lave, if the election were to be made there; but they will not be uninformed of those great & illustrious characters which have merited their esteem & confidence. If the Executive be ["not" stricken out] chosen by the Nat<sup>l</sup> Legislature, he will ["be" stricken out] <sup>not be in-</sup> dependent on it; and if not independent, usurpation & tyranny on the part of the Legislature will be the consequence. This was the case in England in the last Century. It has been the case in Holland, where their Senators have engrossed all power. It has been the case every where. He was surprised that an election by the people at large should ever have been like["n" written upon "d"]ed to the polish election of the first Magistrate. An election by the Legislature will bear a real likeness to the election by the Diet of Poland. The great must be the electors in both cases, and the corruption & cabal w<sup>ch</sup> are known to characterize the ["<sup>one</sup>latter" stricken out] would soon find their way into the other. Appointments made by numerous bodies, are always worse than those made by single responsible individuals, or by the people at large.

Col. Mason. It is curious to remark the ["<sup>different</sup>contradictory" stricken out] language held at different times. At one moment we are told that the Legislature is entitled to thorough confidence, ["and" written upon "at"] to indefinite power. At another, that it will be governed by intrigue & corruption, and cannot be ["en" stricken out] trusted ["with" stricken out] at all. But not to dwell on this inconsistency he would observe that a Government, <sup>which is to last</sup> ought at least to be practicable. Would this be the case if the proposed election should be left to the people at large. He conceived it would be as unnatural to refer the choice of a



proper character for chief Magistrate to the people, as it would, be to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates.—

Mr Wilson, could not see the contrariety stated [by Col. Mason] The Legislat<sup>e</sup>, might deserve confidence in some respects, and distrust in others. In acts which were to affect them & yr. Constituents precisely alike confidence was due. In others jealousy was warranted. The appointment to great offices, when the Legislat<sup>e</sup> might feel many motives, not common to the public confidence was surely misplaced. [~~"In"~~ stricken out] This branch of business it was notorious, was most corruptly managed of any that had been committed to legislative bodies.

Mr Williamson, conceived that there was the same difference between an election in this case, [~~"between"~~ <sup>by</sup> stricken out] the people and <sup>by</sup> the legislature, as between an app<sup>t</sup> by lot, and by choice. There are at present distinguished characters, who are known perhaps to almost every man. This will not always be the case. The people will be sure to vote for some man in their own State, and the largest State will be sure to succede. This will not be Virg<sup>a</sup> however. Her slaves will have no suffrage. As the Salary of the Executive will be fixed, and he will <sup>not be</sup> [~~"be in"~~ stricken out] eligible a 2<sup>d</sup> time, there will not be such a dependence on the Legislature as has been imagined.

Question on an election by the people instead of the Legislature; which passed in the negative.

Mas. no. Con<sup>t</sup> no. N. J. no. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

Mr L. Martin moved that the Executive be chosen by Electors appointed by the <sup>several</sup> [~~"Nat<sup>l</sup>"~~ stricken out] Legislatures of the individual States.

Mr Broome 2<sup>ds</sup> On the Question, it passed in the negative

Mas. no. Con<sup>t</sup> no. N. J. no. Pa<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no.  
N. C. no. S. C. no. Geo. no.

On the question on the words "to be chosen by the Nation<sup>l</sup>  
it passed unanimously in the affirmative.  
Legislature"

["Mas. ay. Con<sup>t</sup> ay. N. J. ay. Pa<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay." stricken out]

"For the term of seven years"—postponed nem. con. on  
motion of M<sup>r</sup> Houston & Gov. Morris.

"to carry into execution the nation<sup>l</sup> laws"—agreed to nem.  
con.

"to appoint to offices in cases not otherwise provided  
for".—agreed to nem. con.

"to be ineligible a second time"—M<sup>r</sup> Houston moved to  
strike out this clause.

M<sup>r</sup> Sherman 2<sup>ds</sup> the motion.

M<sup>r</sup> Gov<sup>r</sup> Morris espoused the motion. The ineligibility  
proposed by the clause as it stood tended to destroy the great  
motive to good behavior, the hope of being rewarded by a  
re-appointment. It was saying to him, make hay while the  
sun shines.

On the question for striking out as moved by M<sup>r</sup> Houston,  
it passed in the affirmative.

Mas. ay. Con<sup>t</sup> ay. N. J. ay. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> no.  
N. C. no. S. C. no. Geo. ay.

"For the term of 7 years" resumed

M<sup>r</sup> Broom was for a shorter term since the Executive  
Magistrate was now to be re-eligible. Had he remained  
ineligible a 2<sup>d</sup> time, he should have preferred a longer term.

Doc<sup>r</sup> McClurg moved\* to strike out 7 years, and insert  
"during good behavior". By striking out the words declar-

\* The probable object of this motion was merely to enforce the argument against the re-eligibility of the Executive Magistrate, by holding out a tenure during good behaviour as the alternative for keeping him independent of the Legislature.

ing him not re-eligible, he was put into a situation that would keep him dependent for ever on the Legislature; and he conceived the independence of the Executive to be equally essential with that of the Judiciary department.

Mr Gov<sup>r</sup> Morris 2<sup>d</sup><sup>ed</sup> the motion. He expressed great pleasure in hearing it. This was the way to get a good Government. His fear that so valuable an ingredient would not be attained had led him to take the part he had done. He was indifferent how the Executive should be chosen, provided he held his place by this tenure.

Mr Broome highly approved the motion. It obviated all his difficulties

Mr Sherman considered such a tenure as by no means safe or admissible. As the Executive Magistrate is now re-eligible, he will be on good behavior as far as will be necessary. If he behaves well he will be continued; if otherwise, displaced on a succeeding election.

Mr Madison. \*If it be essential to the preservation of liberty that the Legisl: Execut: & Judiciary powers be separate, it is essential to a maintenance of the separation, that they should be independent of each other. The Executive could not be independent of the Legislature, if ["unaccountable or not" stricken out] dependent on the pleasure of that branch for a re-appointment. Why was it determined that the Judges should not hold their places by such a tenure? Because they ["might" stricken out] might be tempted to cultivate the Legislature, by an undue complaisance, and thus render the Legislature the virtual expositor, as well the maker of the laws. In like manner a dependence of the Executive

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\*The view here taken of the subject was meant to aid in parrying the animadversions likely to fall on the motion of Dr. McClurg, for whom J. M. had a particular regard, ["and whose appointment to the Convention he had actively promoted" stricken out]. The Doct. though possessing talents of the highest order, was modest & unaccustomed to exert them in public debate.

on the Legislature, would render it the Executor as well as the maker of laws; & then according to the observation of Montesquieu, tyrannical laws may be made that they may be executed in a tyrannical manner. There was an analogy between the Executive & Judiciary departments in several respects. The latter [<sup>executed</sup> illegible word stricken out]<sup>ts</sup> the laws in certain cases as the former did in others. The former expounded & applied them for certain purposes, as the other did for others. The difference between them seemed to consist chiefly in two circumstances—1. the collective interests & security were much more in the power belonging to the Executive than to the Judiciary department. 2. in the administration of the former much greater latitude is left to opinion and discretion than in the administration of the latter. But if the 2<sup>d</sup> consideration proves [“that” stricken out] that it will be more difficult to establish a rule sufficiently precise for trying the Execut: than [“of” stricken out] the Judges, & forms an objection to the same tenure of office, both considerations prove that it might be more dangerous to suffer a Union between the Executive & Legislat: powers, than between the Judiciary & Legislative powers. He conceived it to be absolutely necessary to a well constituted Republic that the two first sh<sup>d</sup> be kept distinct & independent of each other. Whether the plan proposed by the motion was a proper one was another question, as it depended on the practicability of [“instituting” stricken out] instituting a tribunal for impeachm<sup>ts</sup> as certain & as adequate in the one case as in the other. On the other hand, respect for the mover entitled his proposition to a fair hearing & discussion, until a less objectionable expedient should be [“<sup>applied</sup> devised” stricken out] for guarding ag<sup>st</sup> a dangerous [<sup>union</sup> “combination” stricken out] of the Legislative & Executive departments.

Col. Mason. This motion was made some time ago, & negatived by a very large majority. He trusted that it w<sup>d</sup> be again negatived. It w<sup>d</sup> be impossible to define the misbehaviour in such a manner as to subject it to a proper trial; and perhaps still more impossible to compel so high an offender holding his office by such a tenure to submit to a trial. He considered an ["appointment for life" <sup>Executive during good behavior</sup> stricken out] as a softer name only for an Executive for life. And that the next would be an easy step to hereditary Monarchy. If the motion should finally succeed, he might himself live to see such a Revolution. If he did not it was probable his children or grandchildren would. He trusted there were few men in that House who wished for it. No state he was sure had so far revolted from Republican principles as to have the least bias in its favor.

M<sup>r</sup> Madison, was not apprehensive of being thought to favor ["any" stricken out] any step towards monarchy. The real object with him was to prevent its introduction. Experience had proved a tendency in our governments to throw all power into the Legislative vortex. The Executives of the States are little more than Cyphers; the legislatures omnipotent. If no effectual check be devised for restraining the instability & encroachments of the latter, a revolution of some kind or other would be inevitable. The preservation of Republican Gov<sup>t</sup> therefore required some expedient for the purpose, but required evidently at the same time that in devising it, the genuine principles of that form should be kept in view.

M<sup>r</sup> Gov<sup>t</sup> Morris was as little a friend to monarchy as any gentleman. He concurred in the opinion that the way to keep out monarchial Gov<sup>t</sup> was to establish such a Repub.

Gov<sup>t</sup> as w<sup>d</sup> make the people happy and prevent a desire of change.

Doc<sup>r</sup> McClurg was not so much afraid of the shadow of monarchy as to be unwilling to approach it; nor so wedded to Republican Gov<sup>t</sup> as not to be sensible of the tyrannies that had been & may be exercised under that form. It was an essential object with him to make the Executive independent of the Legislature; and the only mode left for effecting it, after the vote destroying his ineligibility a second time, was to appoint him during his good behavior.

On the question for inserting "during good behavior" in place of 7 years [[ "&" stricken out ]<sup>with a</sup> re-eligibility] it passed in the negative.

Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.\*

On the motion "to strike out seven years" it passed in the negative.

Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. no. Geo. no.†

It was now unanimously agreed that the vote which had struck out the words "to be ineligible a second time" should be reconsidered tomorrow.

["Adj<sup>d</sup>" stricken out]

Adj<sup>d</sup>

Wednesday July 18. in Convention

On motion of M<sup>r</sup> L. Martin <sup>to fix tomorrow</sup> for reconsidering the vote concerning "eligibility of Exec<sup>tive</sup> a 2<sup>d</sup> time" it passed in the affirmative.

[\*-This vote is not be considered as any certain index of opinion, as a number in the affirmative probably had it chiefly in view to alarm those attached to a dependence of the Executive on the Legislature, & thereby facilitate <sup>some</sup> final arrangement of a contrary tendency. The ["only" stricken out] avowed friends of an Executive, "during good behaviour" were ["eligible words" not more than three or four] many other members whose judgments were understood privately to favor that tenure for the Executive office" stricken out].

[†there was no debate on this <sup>motion</sup> ["motion" stricken out]. the apparent object of many in the affirmative was to secure the <sup>re</sup> eligibility by shortening the term, and <sup>of many</sup> in the negative to embarrass the plan of referring the appointment & dependence of the Executive to the Legislature.]

\*transfer the above notes hither.

not is it certain they would finally have adhered to ["a" stricken out] such a tenure. An independence of the three great departments of ["the Government" stricken out] of each other, as far as possible, and the responsibility of all to the will of the community seemed to be generally admitted as the true basis of a well constructed government.



Mas. ay. Con<sup>t</sup> ay. N. J. absent. Pa<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>ra</sup> ay. N. C. ay. S. C ay. Geo absent.

The residue of Resol. 9. concerning the Executive <sup>was</sup> postp<sup>d</sup> till tomorrow. ["nem. con." stricken out]

Resol. 10. that Executive sh<sup>l</sup> have a right to negative legislative acts not afterwards passed by  $\frac{2}{3}$  of each branch. Agreed to nem. con.

Resol. 11. "that a Nat<sup>l</sup> Judiciary be estab<sup>d</sup> to consist of one supreme tribunal." ag<sup>d</sup> to nem. con.

"The Judges of which to be appoint<sup>d</sup> by the 2<sup>d</sup> branch of the Nat<sup>l</sup> Legislature."

M<sup>r</sup> Ghorum, w<sup>d</sup> prefer <sup>an</sup> appointment by the 2<sup>d</sup> branch to an appointm<sup>t</sup> by the whole Legislature; but he thought even that branch too numerous, and too little personally responsible, to ensure a good choice. He suggested that the Judges be appointed by the Execu<sup>ve</sup> with the advice & consent of the 2<sup>d</sup> branch, in the mode prescribed by the constitution of Mas<sup>ts</sup>. This mode <sup>had been long</sup> ["long" stricken out] practiced in that country, & was found to answer perfectly well.

M<sup>r</sup> Wilson, still w<sup>d</sup> prefer an appointm<sup>t</sup> by the Execu<sup>ve</sup>; but if that could not be attained, w<sup>d</sup> prefer in the next place, the mode suggested by M<sup>r</sup> Ghorum. He thought it his duty however to move in the first instance "that the Judges be appointed by the Executive." M<sup>r</sup> Gov<sup>r</sup> Morris 2<sup>ded</sup> the motion.

M<sup>r</sup> L. Martin was strenuous for an app<sup>t</sup> by the 2<sup>d</sup> branch. Being taken from all the States it w<sup>d</sup> be best informed of characters & <sup>most</sup> capable of making a fit choice.

M<sup>r</sup> Sherman concurred in the observations of M<sup>r</sup> Martin, adding that the Judges ought to be diffused, which would be

more likely to be attended to by the 2<sup>d</sup> branch, than by the Executive.

M<sup>r</sup> Mason. The mode of appointing the Judges may depend in some degree on the mode of trying impeachments, <sup>of the Executive.</sup> If they Judges were to form a tribunal for that purpose, they surely ought not to be appointed by the Executive. There were insuperable objections besides ag<sup>st</sup> referring the appointment to the Executive. He mentioned as one, that as the seat of Gov<sup>t</sup> must be in some one State, and the Executive would remain in office for a considerable <sup>time, for 4, 5, or 6 years at least</sup> he would insensibly form local & personal attachments within the particular State that would deprive equal merit ["of" stricken out] elsewhere, of an equal chance of promotion.

M<sup>r</sup> Ghorum. ["As" written upon "If"] the Executive will be responsible in point of character at least, for a judicious and faithful discharge of his trust, he will be careful to look through all the States for proper characters.—The Senators will be as likely to form their attachments at the seat of Gov<sup>t</sup> where they reside, as the Executive. If they can not get the man of the particular State to which <sup>they</sup> may respectively belong, they will be indifferent to the rest. Public bodies feel no <sup>personal</sup> responsibility and give full play to intrigue & cabal. Rh. Island is a full illustration of the insensibility to character ["inspired" stricken out] <sup>produced</sup> by a participation of numbers, in dishonorable ["measures" written upon "length"], and of the length to which a public body may carry wickedness & cabal.

M<sup>r</sup> Gov<sup>r</sup> Morris supposed it would be improper for an impeachment of the Executive to be tried before the Judges. The latter would in such case be drawn into intrigues with the Legislature and an impartial trial would be frustrated. <sup>As they w<sup>ld</sup> be much about the seat of Gov<sup>t</sup></sup> <sub>^</sub>

They might even be previously consulted & arrangements might be made for a prosecution of the Executive. He thought therefore ["there could" stricken out] that no argument could be drawn from the probability of such a plan of impeachments ag<sup>st</sup> the motion before the House.

M<sup>r</sup> Madison, suggested that the Judges might be appointed by the Executives with the concurrence of <sup>1/3 at least</sup> I of the 2<sup>d</sup> branch. This would unite the advantage of responsibility in the Executive with the security afforded in the 2<sup>d</sup> branch ag<sup>st</sup> any [<sup>incautious</sup> "flagrant" stricken out] or corrupt nomination by the Executive.

M<sup>r</sup> Sherman, was clearly for an election by the Senate. It would be composed of men nearly equal to the Executive, and would of course have on the whole more wisdom. They would bring into their deliberations <sup>a</sup> more diffusive knowledge of characters. It would be less easy for candidates to intrigue with them, than with the Executive Magistrate. For these reasons he thought there would be a better security for a proper choice in the Senate than in the Executive.

M<sup>r</sup> Randolph. It is true that when the app<sup>t</sup> of the Judges was vested in the 2<sup>d</sup> branch an equality of votes had not been given to it. Yet he had rather leave the appointm<sup>t</sup> there than give it to the Executive. He thought the advantage of <sup>personal</sup> responsibility might be gained in the Senate by requiring the votes of the members to be <sup>respective</sup> entered on the Journal. He thought too that the hope of <sup>receiving</sup> app<sup>ts</sup> would be more diffusive if they depended on the Senate, the members of which w<sup>d</sup> be diffusively known, than if they depended on a single man who could not be personally known to a very great extent; and consequently that opposition to the System, would be so far weakened

Mr Bedford thought there were solid reasons ag<sup>st</sup> leaving the appointment to the Executive. He must trust more to information than the Senate. It would put it in his power to gain over the larger States, by gratifying them with a preference of their Citizens. The responsibility of the Executive so much talked of was chimerical. He could not be punished for mistakes.

Mr Ghorum remarked that <sup>the</sup> Senate could have no better information than the Executive. They must like him, trust to information <sup>from</sup> ["of" stricken out] the members belonging to the particular State where the Candidates resided. The Executive would certainly be more answerable for a good appointment, as the whole blame of a bad one would fall on him alone. He did not mean that he would be answerable under any other penalty than that of public censure, which with honorable minds was a sufficient one.

On the question for referring the appointment of the Judges to the Executive, <sup>the 2<sup>d</sup> branch</sup> instead of ["Senate" stricken out]

Mas. ay. Con<sup>t</sup> no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no V<sup>a</sup> no. N. C. no. S. C. no.—Geo. absent.

Mr Ghorum moved "that the ["Executive" stricken out] Judges be ["appointed" stricken out] <sup>nominated and appointed</sup> by the Executive, by <sup>& every such nomination shall be made at least</sup> days prior to such appointment" & with the advice & consent of the 2<sup>d</sup> branch. This mode <sup>he said</sup> had been ratified by the experience of 140 years in Massachusetts. If the app<sup>t</sup> should be left to either branch of the Legislature, it will be a mere piece of jobbing.

Mr Gov<sup>r</sup> Morris 2<sup>ded</sup> & supported the motion.

Mr Sherman thought it less objectionable than an absolute appointment by the Executive; but disliked it as too much fettering the Senate.

Question ["on" written upon "of"] Mr. Ghorum's motion

Mas. ay. Con. no. Pa<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no.  
S. C. no. Geo. absent.

Mr. M<sup>r</sup> Madison moved that the Judges should be nominated by the Executive, & such nomination should become an appointment [<sup>if not</sup> "unless" stricken out] disagreed to within        days by  $\frac{2}{3}$  of the 2<sup>d</sup> branch. M<sup>r</sup> Gov<sup>r</sup> <sup>Morris</sup> 2<sup>d</sup> the motion. By common consent the consideration of it was postponed till tomorrow.

& "to receive fixed salaries"  
"To hold their offices during good behavior" agreed to nem: con:

"In which [salaries of Judges] no increase or diminution <sup>so as to affect the persons at the time in office</sup> shall be made, ['&c' stricken out]".

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out "or increase". He thought the Legislature ought to be at liberty to increase salaries as circumstances might require, and that this would not create any improper dependence in the Judges.

Doc<sup>r</sup> <sup>was in favor of the motion</sup> Franklin, Money may not only become plentier, but the business of the department may increase as the Country becomes more populous.

M<sup>r</sup> Madison. The dependence will be less if the increase alone should be permitted, but it will be improper even so far to permit [<sup>a dependence</sup> "it" stricken out] Whenever an increase is wished by the Judges, or may be in agitation in the legislature, an undue complaisance in the former may be felt towards the latter. If [<sup>there</sup> "snits" stricken out] at such a crisis <sup>suits</sup> should be in Court to which leading members of the Legislature may be parties, the Judges will be in a situation which ought not to suffered, if it can be prevented. The variations in the value of money, may be guarded ag<sup>st</sup> by taking for a standard wheat or some other thing of permanent value. The increase of business [<sup>will</sup> "must" stricken out] be provided for by an increase of the number who are to do it. An increase of salaries may be <sup>easily so contrived as not to</sup> effect persons in office. ["and." illegible words, "plea during the life of Judges" stricken out]

M<sup>r</sup> Gov<sup>r</sup> Morris. The value of money may not only alter but the State of Society may alter. In this event the same quantity of wheat, <sup>the same value</sup> would not be the same compensation. The Amount of salaries must always be regulated by the manners & the style of living in a Country. The increase of business can not be provided for in the supreme tribunal in the way that has been mentioned. All the business of a certain description whether more or less must be done in that single tribunal—Additional labor alone in the Judges can provide for additional business. Additional compensation therefore ought not to be prohibited.

On the question for striking out “or increase”

Mas. ay. Con<sup>t</sup> ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. absent

The whole clause as amended was then agreed to nem : con :

12. Resol: “that Nat<sup>l</sup> <sup>Legislature</sup> be empowered to appoint inferior tribunals”

M<sup>r</sup> Butler could see no necessity for such tribunals. The State Tribunals might do the business.

M<sup>r</sup> L. Martin concurred. They will create jealousies & oppositions in the State tribunals, with the jurisdiction of which they will interfere.

M<sup>r</sup> Ghorum. There are in the States already <sup>federal</sup> Courts with [“federal” stricken out] jurisdiction for trial of piracies &c. committed on the Seas. no complaints have been made by the States or the Courts of the States. Inferior tribunals are essential to render the authority of the Nat<sup>l</sup> Legislature effectual

M<sup>r</sup> Randolph observed that the Courts of the States can not be trusted with the administration of National laws. The objects of jurisdiction are such as will often place the General & local policy at variance.



Mr Gov<sup>r</sup> Morris urged also the necessity of such a provision

Mr Sherman was willing to give the power to the Legislature but wished them to make use of the State Tribunals whenever it could be done, with safety to the general interest.

Col. Mason thought many circumstances might arise not now to be foreseen, which might render such a power absolutely necessary.

On question for agreeing to 12. Resol: ["as to" stricken out] <sup>empowering the National Legislature to appoint</sup> "inferior tribunals". Ag<sup>d</sup> to nem. con.

<sup>"Impeachments of national officers" were struck out "on motion for the purpose.</sup>

13. Resol: ["reciting" stricken out] "The jurisdiction of Nat<sup>l</sup> Judiciary". [" " stricken out] Several criticisms <sup>Madison</sup> having been made on the definition; it was proposed by Mr so to alter as to read thus—"that the jurisdiction shall extend to all cases arising under the Nat<sup>l</sup> laws: ["and also" stricken out] And to such other questions as may involve the Nat<sup>l</sup> peace & harmony." which was agreed to nem. con.

<sup>providing for the admission of new States</sup>

Resol. 14. <sup>^</sup>Agreed to nem. con.

Resol. 15. that provision ought to be made for the continuance of Cong<sup>s</sup> &c. & for the completion of their engagements."

Mr Gov<sup>r</sup> Morris thought the assumption <sup>p</sup> of their engagements might as well be omitted; and that Cong<sup>s</sup> ought not to be continued till all the States should adopt the reform; since it may become expedient to give effect to it whenever a certain number of States shall adopt it.

Mr <sup>Madison</sup> the clause can mean nothing more than that provision ought to be made for preventing an interregnum; which must exist in the interval between the adoption of the New Gov<sup>t</sup> and the commencement of its operation, if the old Gov<sup>t</sup> should cease on the first of these ["events" stricken out] events.

M<sup>r</sup> Wilson did not entirely approve of the manner in which the clause relating to the engagements of Cong<sup>s</sup> was expressed; but he thought some provision on the subject would be proper in order to prevent any suspicion that the obligations of the Confederacy might be dissolved along with the Govern<sup>t</sup> under which they were contracted.

On the question on the 1<sup>st</sup> part—relating to continuance of Cong<sup>s</sup>”

Mass. no—Con<sup>t</sup> no. P<sup>a</sup> no. Del—no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. <sup>\*</sup>ay. Geo. no.

The 2<sup>d</sup> part as to completion of their engagements. disag<sup>d</sup> to. nem. con.

Resol. 16. “That a Republican Constitution & its existing laws ought to be guaranteed to each State by the U. States.”

M<sup>r</sup> Gov<sup>r</sup> Morris—thought the Resol: very objectionable. He should be very unwilling that such laws as exist in R. Island should be guaranteid.

M<sup>r</sup> Wilson. The object is merely to secure the States ag<sup>st</sup> dangerous commotions, [“and” stricken out] insurrections and rebellions.

Col. Mason. [“If” written upon “A”] the Gen<sup>l</sup> Govt. should have no right to suppress rebellions<sup>1</sup> ag<sup>st</sup> particular States, it will be in a bad situation indeed. As Rebellions ag<sup>st</sup> itself [“will” stricken out] originate in & ag<sup>st</sup> individ<sup>its</sup> ual States, it must remain a passive Spectator of own subversion.

M<sup>r</sup> Randolph. The Resol<sup>n</sup> has 2. Objects. 1. to secure Republican Government. 2. to suppress domestic commotions. He urged the necessity of both these provisions.

M<sup>r</sup> Madison moved to substitute “that the Constitutional

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<sup>\*</sup>In the printed Journal. S. Carolina—no.

authority of the States shall be guarantied to them respectively ag<sup>st</sup> domestic as well as foreign violence."

Doc<sup>t</sup> McChurg seconded the motion.

M<sup>r</sup> Houston was afraid of perpetuating the existing ["the" stricken out] Constitutions of the States. That of Georgia was a very bad one, and he hoped would be revised & amended. It may also be difficult for the Gen<sup>l</sup> Gov<sup>t</sup> to decide between contending parties each of which claim the sanction of the Constitution.

M<sup>r</sup> L. Martin was for leaving the States to suppress Rebellions themselves.

M<sup>r</sup> Ghormm thought it strange that a Rebellion should be known to exist in the Empire, and the Gen<sup>l</sup> Gov<sup>t</sup> sh<sup>d</sup> be restrained from interposing to subdue["ing" stricken out] it. At this rate an enterprising Citizen might erect the standard of Monarchy in a particular State, might gather together partizans from all quarters, might extend his views from State to State, and threaten to establish a tyranny over the whole & ["whilst" stricken out] the Gen<sup>l</sup> Gov<sup>t</sup> be compelled to remain an inactive witness of its own destruction. With regard to different parties in a State; as long as they confine their disputes to words they will be harmless to the Gen<sup>l</sup> Gov<sup>t</sup> & to each other. If they appeal to the sword it will then be necessary for the Gen<sup>l</sup> Gov<sup>t</sup>, however difficult it may be to decide <sup>on</sup> the merits of their contest, to interpose & put an end to it. [";" " stricken out]

M<sup>r</sup> Carrol. Some such provision is essential. Every State ought to wish for it. It has been doubted whether it is a casus federis at present. And no room ought to be left for such a doubt hereafter.

M<sup>r</sup> Randolph moved to add as amend<sup>t</sup> to the motion; "and

that no State be at liberty to form any other than a Republican Gov<sup>t</sup>” M<sup>r</sup> Madison seconded the motion

M<sup>r</sup> Rutledge thought it unnecessary to insert any guarantee. No doubt could be entertained but that Cong<sup>s</sup> had the authority if they had the means to co-operate with any State in subduing a rebellion. It was & would be involved in the nature of the thing.

M<sup>r</sup> Wilson moved as a better expression of the idea, “that a Republican [<sup>form of Government, shall</sup> “should” stricken out] be guaranteed to each State & that each State shall be protected ag<sup>st</sup> foreign & domestic violence.

This seeming to be well received, M<sup>r</sup> Madison & M<sup>r</sup> Randolph withdrew their propositions & on the Question for agreeing to M<sup>r</sup> Wilson’s motion it passed nem. con.

Adj<sup>d</sup>

Thursday, July. 19. in Convention.

On reconsideration of the vote rendering the Executive re-eligible a 2<sup>d</sup> time,

M<sup>r</sup> Martin moved to reinstate the words “to be ineligible a 2<sup>d</sup> time”.

M<sup>r</sup> Gouverneur Morris. It is necessary to take into one view all that relates to the establishment of the Executive; on the due formation of which must depend the efficacy & utility of the Union among the present and future States. It has been a maxim in Political Science that Republican Government is not adapted to a large extent of Country, because the energy of the Executive Magistracy can not [<sup>reach the extreme</sup> “pervade every every” stricken out] parts of it. Our Country is an extensive one. We must either then renounce the blessings

of the Union, or provide an Executive with sufficient vigor to pervade every part of it. This subject was of so much importance that he hoped to be indulged in an extensive view of it. One great object of the Executive is to controul the Legislature. The Legislature will continually seek to aggrandize & perpetuate themselves; and will seize those critical moments produced by war, invasion or convulsion for that purpose. It is necessary then that the Executive Magistrate should be the guardian of the people, even of the lower classes, against Legislative tyranny, against the Great & the wealthy who in the course of things will necessarily compose—the Legislative body. Wealth tends to corrupt the mind & to nourish [“its” written upon “the”] love of power, and to stimulate it to oppression. History proves this to be the spirit of the opulent. The check provided in the 2<sup>d</sup> branch was not meant as a check on Legislative usurpation of power, but on the abuse of lawful powers, on the propensity in the 1<sup>st</sup> branch to legislate too much to run into projects of paper money & similar expedients. It is no check on Legislative tyranny. On the contrary it may favor it, and if the 1<sup>st</sup> branch can be seduced may find the means of success. The Executive therefore ought to be so constituted as to be the great protector of the Mass of the people.—It is [“the” stricken out] the duty of the Executive to appoint the officers & to command the [“armies” stricken out] forces of the Republic: to appoint 1. ministerial officers for the administration of public affairs. 2. Officers for the dispensation of Justice—Who will be the best Judges whether these appointments be well made? The people at large, who will know, will see, will feel the effects of them—Again who can judge so well of <sup>the</sup> discharge of military duties for the protection & security of

the people, as the people themselves who are to be protected & secured? He finds too that the Executive is not to be re-eligible. What effect will this ["be on him" <sup>have?</sup> stricken out]. 1. it will destroy the great incitement to merit public esteem by taking away the hope of being rewarded with a reappointment. It may give a dangerous turn to one of the strongest passions ["of" <sup>in</sup> stricken out] the human breast. The love of fame is the great spring to noble & illustrious actions. Shut the Civil road to Glory & he may be ["moved to cut his way to it" stricken out] compelled to seek it by the sword. 2. It will tempt him to make the most of the Short space of time allotted him, ["and which for" stricken out] <sup>to</sup> accumulate wealth and provide for his friends. 3. It will produce violations of the very constitution it is meant to secure. In moments of pressing danger the tried abilities and established character of a favorite Magistrate will prevail over respect for the forms of the Constitution. The Executive is also to be impeachable. This is a dangerous part of the plan. It will hold him in such dependence that he will be no check on the Legislature, will not be a firm guardian of the people and of the public interest. He will be the tool of a faction, of some leading demagogue in the Legislature. These then are the faults of the Executive establishment as now proposed. Can no better establishment be devised? If he is to be the Guardian of the people let him be appointed by the people? If he is to be a check on the Legislature let him be impeachable. Let him be of short duration, that he may with propriety be re-eligible.—It has been said that the candidates for this office will not be known to the people. If they be known to the Legislature, they must have such a notoriety and eminence of Character, that they cannot



possibly be unknown to the people at large. It cannot be possible that a man shall have sufficiently distinguished himself to merit this high trust without having his character proclaimed by fame throughout the Empire. As to the danger from an unimpeachable magistrate he could not regard it as formidable. There must be <sup>certain</sup> great officers of State; a minister of finance, of war, of foreign affairs &c. These he presumes will ["hold" stricken out] <sup>exercise</sup> their functions in subordination to the ["m" stricken out] Executive, and will be amenable by impeachment to the public Justice. Without these ministers the Executive can do nothing of consequence. He suggested <sup>a</sup> biennial election of the Executive at the time of ["s" stricken out] electing the 1<sup>st</sup> branch, and the Executive to hold over, so as to prevent any interregnum in the Administration. An election by the people at <sup>throughout so great an extent of country</sup> large could not be influenced, by those little combinations and those momentary lies which often decide popular elections within a narrow sphere. It will probably, be objected that the election will be influenced by the members of the Legislature; particularly of the 1<sup>st</sup> branch, and that it will be nearly the same thing with an election by the Legislature itself. It could not be denied that such an influence would exist. But it might be answered that as the Legislature <sup>or the candidates for it</sup> would be divided, the ["ir" stricken out] enmity of one part would counteract the friendship of another; that if the administration of the Executive were good, it would <sup>be</sup> unpopular to oppose his re-election, if bad it ought to be opposed & a reappointment prevented; and lastly that in every view this indirect dependence on the favor of the Legislature could not be so mischievous as a direct dependence for his appointment. He saw no alternative for making the Executive independent

of the Legislature but either to give him his office for life, or make him eligible by the people.—Again, it might be objected that two years would be too short a duration. But he believes that as long as he should behave himself well, he would be continued in his place. The extent of the Country would secure his re-election ag<sup>st</sup> the factions & discontents of particular States. It deserved consideration also that such an ingredient in the plan would render it extremely palatable to the people. These were the general ideas which occurred to him on the subject, and which led him to <sup>wish & move</sup> [illegible words stricken out] that the <sup>whole constitution of the Executive</sup> ["subject at large" stricken out], might undergo reconsideration.

M<sup>r</sup> Randolph urged the motion of M<sup>r</sup> L. Martin for restoring the words making the Executive ineligible a 2<sup>d</sup> time. If he ought to be independent, he should not be left under a temptation to court a re-appointment. If he should be re-appointable by the Legislature, he will be no check on it. His revisionary power will be of no avail. He had always thought & contended as he still did that the danger apprehended by the little States was chimerical, but ["if but" stricken out] those who thought otherwise ["must" stricken out] ought to be peculiarly anxious for the motion. If the Executive be appointed, as has been determined, by the Legislature, he will probably be appointed either by joint ballot of both houses, or be nominated by the 1<sup>st</sup> and appointed by the 2<sup>d</sup> branch. In either case the large States will preponderate. If he is to court the same influence for his re-appointment, will he <sup>not</sup> make his revisionary power, and all the other functions of his administration subservient to the views of the large States. Besides—is there not great reason to apprehend that in case he should be re-eligible, a

false complaisance in the Legislature might lead them to continue an unfit man in office in preference to a fit one. It has been said that a constitutional bar to reappointment will inspire unconstitutional endeavours to perpetuate himself. It may be answered that his endeavours can have no effect unless the people be corrupt to such a degree as to render all precautions hopeless: [~~"Add to this"~~ stricken out] to which may be added that this argument supposes him to be more powerful & dangerous, tha[~~"n"~~ written upon ~~"t"~~] other arguments which have been used, admit, and consequently calls for stronger [~~"guards ag<sup>st</sup>"~~ stricken out] fetters on his authority. He thought an election by the Legislature with an incapacity to be elected a second time would be more acceptable to the people than the plan suggested by M<sup>r</sup> Gov<sup>r</sup> Morris.

M<sup>r</sup> King. did not like the ineligibility. He thought there was great force in the remark of M<sup>r</sup> Sherman, that he who has proved himself to be most fit for an Office, ought not to be excluded by the constitution from holding it. He would therefore prefer any other reasonable plan that could be substituted. He was much disposed to think that in such cases the people at large would chuse wisely. There was indeed some difficulty arising from the improbability of a general concurrence of the people in favor of any one man. On the whole he was of opinion that an appointment by electors chosen by the people for the purpose, would be liable to fewest objections.

M<sup>r</sup> Patterson's ideas nearly coincided he said with those of M<sup>r</sup> King. He proposed that the Executive should be appointed by Electors to be chosen by the States in a ratio that would allow one elector to the smallest and three to the largest States.

Mr Wilson. It seems to be the unanimous sense ["of" stricken out]<sup>that</sup> the Executive should not be appointed by the Legislature, unless <sup>he</sup> be rendered in-eligible a 2<sup>d</sup> time: he perceived with pleasure that the idea was gaining ground, of an election mediately or immediately by the people.

Mr Madison If it be a fundamental principle of free Gov<sup>t</sup> that the Legislative, Executive & Judiciary powers should be separately exercised; it is equally so that they be independently exercised. There is the same & perhaps greater reason why the Executive sh<sup>d</sup> be independent of the Legislature, than why the Judiciary should: A coalition of the two former powers would be more immediately & certainly dangerous to public liberty. It is essential then ["either" stricken out] that the appointment of the Executive should be drawn from some source, or held by some tenure, that will give him a free agency with regard to the Legislature. This could not be ["the case" stricken out] if he was to be appointable from time to time by the Legislature. It was not clear that an appointment in the 1<sup>st</sup> instance <sup>even</sup> with an ineligibility afterwards would ["be pro" stricken out] not establish an improper connection between the two departments. Certain it was that the appointment would be attended with intrigues and contentions that ought not to be unnecessarily <sup>admitted</sup> ["created" stricken out]. He was disposed for these reasons to refer the appointment to some other Source. The people at large was in his opinion the fittest in itself. ["It was the source from which the Legislature He was persuaded" stricken out]. It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character. The people generally could only know & vote for some Citizen whose merits had rendered him an object of

general attention & esteem. There was one difficulty however of a serious nature attending an immediate ["e" written upon "l"] choice by the people. The right of suffrage was much more diffusive in the [<sup>Northern than</sup> "Eastern &" stricken out] the Southern States; and the latter could have no influence in the election on ["account" <sup>the score</sup> stricken out] of the Negroes. The substitution of electors obviated this difficulty and seemed on the whole liable to the fewest objections.

Mr Gerry. If the Executive is to be elected by the Legislature he certainly ought ["to" stricken out] not to be re-eligible. This would make him absolutely dependent. He was against a popular election. The people are uninformed, and would be misled by a few designing men. He urged the expediency of an appointment of the Executive by Electors to be chosen by the State Executives. The people of the States will then choose the 1<sup>st</sup> branch: The legislatures of the States ["the" written upon "of"] 2<sup>nd</sup> branch of the National Legislature, and the Executives of the States, the National Executive—This he thought would form a strong attachment in the States to the National System. The popular mode of electing the chief Magistrate would certainly be the worst of all. If he should <sup>be</sup> so elected & should do his duty, he will be turned out for it like Gov<sup>r</sup> Bowdoin in Mass<sup>ts</sup> & President Sullivan in N. Hampshire.

On the question on Mr Gov<sup>r</sup> Morris motion to reconsider generally the Constitution of the Executive—

Mas. ay. Ct ay. N. J. ay. & all the others ay.

Mr Elsworth moved to strike out the appointment by the Nat<sup>l</sup> Legislature, and insert "to be [<sup>chosen</sup> 'appointed' stricken out] by electors appointed [<sup>appointed</sup> 'chosen,' stricken out] by the Legislatures of the States in the following ratio; to wit—['1'

stricken out]<sup>one</sup> for each State not exceeding 200,000 inhab<sup>ts</sup>  
 ['2' stricken out]<sup>two</sup> for each above y<sup>t</sup> number & not exceed-  
 ing 300,000. and ['3' stricken out]<sup>three</sup>, for each State exceeding  
 300,000.—M<sup>r</sup> Broome 2<sup>d</sup> the motion

M<sup>r</sup> Rutledge was opposed to all the modes except the  
 appointm<sup>t</sup> by the Nat<sup>l</sup> Legislature. He will be sufficiently  
 independent, if he be not re-eligible

M<sup>r</sup> Gerry preferred the motion of M<sup>r</sup> Elsworth to an  
 appointm<sup>t</sup> by the Nat<sup>l</sup> Legislature, or by the people; tho'  
 not to an app<sup>t</sup> by the State Executives. He moved that the  
 electors proposed by M<sup>r</sup> E. should be 25 in number, and  
 allotted in [<sup>following</sup> "present" stricken out] proportion. to N. H. 1.  
 to Mas. 3. to R. I. 1. to Con<sup>t</sup> 2—to N. Y. 2—N. J. 2. P<sup>a</sup> 3. Del.  
 1. M<sup>d</sup> 2. V<sup>a</sup> 3. N. C. 2. S. C. 2. Geo. 1.

["The" written upon "On"] question as moved by M<sup>r</sup>  
 Elsworth being divided, on the 1<sup>st</sup> part shall y<sup>e</sup> Nat<sup>l</sup> Execu-  
 tive be appointed by Electors?

Mas-div<sup>d</sup> Con<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay—  
 N. C. no. S. C. no. Geo. no.

On 2<sup>d</sup> part shall the Electors be chosen by State Legisla-  
 tures?

Mas. ay. Con<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup>. no.  
 N. C. ay. S. C. no. Geo. ay.

The part relating to the ratio in which the States s<sup>d</sup> chuse  
 electors was postponed nem. con.

M<sup>r</sup> L. Martin moved that the Executive be ineligible a 2<sup>d</sup>  
 time.

M<sup>r</sup> Williamson 2<sup>ds</sup> the motion. He had no great confidence  
 in the Electors to be chosen for the special purpose. They  
 would not be <sup>the</sup> most respectable citizens; but persons not  
 occupied in the high offices of Gov<sup>t</sup> They would be liable to



undue influence, which might the more readily be practiced as some of them will probably be in appointment 6 or 8 months before the object of it comes on.

M<sup>r</sup> Elsworth supposed any persons might be appointed Electors, excepting solely, members of the Nat<sup>l</sup> Legislature.

On the question shall he be ineligible a 2<sup>d</sup> time?

Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. no.

On <sup>the</sup> question shall the Executive continue for 7 years?  
It passed in the negative Mas. div<sup>d</sup> Con<sup>t</sup> ay. N—J. nō. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. div<sup>d</sup> S. C. ay. Geo. ay.

M<sup>r</sup> King was afraid we sh<sup>d</sup> shorten the term too much.

M<sup>r</sup> Gov<sup>r</sup> Morris was for a short term, in order <sup>to</sup> avoid impeach<sup>ts</sup> which w<sup>d</sup> be otherwise necessary. [“He” stricken out]

M<sup>r</sup> Butler was ag<sup>st</sup> a frequency of the elections. Geo. & S. C. were too distant to send electors often.

M<sup>r</sup> Elsworth was for 6. years. If the elections be too frequent, the Executive will not be firm eno<sup>l</sup>. There must be duties which will make him unpopular for the moment. There will be outs as well as ins. His administration therefore will be attacked and misrepresented.

M<sup>r</sup> Williamson was for 6 years. The expence will be considerable & ought not to be unnecessarily repeated. If the Elections are too frequent, the best [“m” written upon “w”]en will not undertake the service and [“th” written upon “oth”]ose of an inferior character will be liable to be corrupted.

On question for 6 years?

Mas. ay. Con<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay

Adjourned

Friday July 20—in Convention

The <sup>postponed</sup> Ratio of <sup>["voted yesterday" stricken out]</sup> Electors for appointing the Executive; to wit 1 for each State whose inhabitants do not exceed 100,000, &c. ["considered" stricken out] <sup>being taken up.</sup>  
× M<sup>r</sup> Madison observed that this would make in time all <sup>or nearly all</sup> the States equal. Since there were few that would not in time contain the number of inhabitants entitling them to 3 Electors; that th<sup>either</sup> ["is" written upon "e"] ratio ought to be made ["a" stricken out] temporary, or so varied as that it would adjust itself to the growing <sup>population of</sup> <sup>^</sup> ["numbers" stricken out] the States.

M<sup>r</sup> Gerry moved that in the 1<sup>st</sup> instance the ["ratio of" stricken out] Electors should be allotted to the States in the following ratio: to N. H. 1. Mas. 3. R. I. 1. Con<sup>t</sup> 2. N. Y. 2. N. J. 2. P<sup>a</sup> 3. Del. 1. M<sup>d</sup> 2. V<sup>a</sup> 3. N. C. 2. S. C. 2. Geo. 1.

On the question to postpone in order to take up this motion of M<sup>r</sup> Gerry. It passed in the affirmative.

Mas. ay. Con<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Elsworth moved that 2 Electors be allotted to N. H. Some rule ought to be pursued; and N. H. has more than 100,000 inhabitants. He thought it would be proper also to allot 2. to Georgia.

M<sup>r</sup> Broom & M<sup>r</sup> Martin moved to postpone M<sup>r</sup> Gerry's allotment of Electors, leaving a fit ratio to be reported by the Committee to be appointed for detailing the Resolutions.

On this motion.

Mas—no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Houston 2<sup>d</sup> the motion of M<sup>r</sup> Elsworth to add another Elector to N. H. & Georgia. On the Question :

Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. ["Del. no." stricken out] Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C—ay—Geo—ay.

M<sup>r</sup> Williamson moved as an amendment to M<sup>r</sup> Gerry's allotment of Electors in the 1<sup>st</sup> instance that in future elections of the Nat<sup>l</sup> Executive, the number of Electors to be appointed by the several States shall be regulated by their respective ["proportion" stricken out] <sup>numbers</sup> of Representatives in the 1<sup>st</sup> branch pursuing as nearly as may be the present proportions.

On question on M<sup>r</sup> Gerry's ["motion" stricken out] ratio of Electors

Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay—N. C. ay. S. C. ay. Geo. no.

"to be removeable on impeachment and conviction ["of" stricken out] <sup>for</sup> malpractice["s" stricken out] or neglect of duty". See Resol: 9:

M<sup>r</sup> Pinkney & M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out this part of the Resolution. M<sup>r</sup> P. observ<sup>d</sup> he ["s<sup>d</sup> not" stricken out] <sup>ought not to</sup> be impeachable whilst in office

M<sup>r</sup> Davie. If he be not impeachable whilst in office, he will spare no efforts or means whatever to get himself re-elected. He considered this as an essential security for the good behaviour of the Executive. ["To punish him when" stricken out.]

M<sup>r</sup> Wilson concurred in the necessity of making the Executive impeachable whilst in office.

Mr Gov<sup>r</sup> Morris. He can do no criminal act without Coadjutors who may be punished. In case he should be re-elected, that will be sufficient proof of his innocence. Besides who is to impeach? Is the impeachment to suspend his functions. If it is not the mischief will go on. If it is the impeachment will <sup>be</sup> nearly equivalent to a displacement, and will render the Executive dependent on those who are to impeach

Col. Mason. No point is of more importance than that the right of impeachment["s" stricken out] should be continued. Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice? When great crimes were committed he was for punishing the principal as well as the Coadjutors. There had been much debate & difficulty as to the mode of chusing the Executive. He approved of that which had been adopted at first, namely of referring the appointment to the Nat<sup>l</sup> Legislature. One objection One objection ag<sup>st</sup> Electors was the danger of their being corrupted by the Candidates: & this furnished a peculiar reason in favor of impeachments ["during" stricken out] whilst in office. Shall the ["offender exemp" stricken out] man who has practised corruption & by that means procured his appointment in the first instance, be suffered to escape punishment, by repeating his guilt?

Doc<sup>r</sup> Franklin was for retaining the clause as favorable to the Executive. History furnishes one example only of a first Magistrate being formally brought to public Justice. Every body cried out ag<sup>st</sup> this <sup>as</sup> unconstitutional. What was the practice before this in cases where the chief Magistrate rendered himself obnoxious? Why recourse was had to assassination in w<sup>ch</sup> he was not only deprived of his life but

of the opportunity of vindicating his character. It w<sup>d</sup> be the best way therefore to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused.

M<sup>r</sup> Gov<sup>r</sup> Morris admits corruption & some few other offences to be such as ought to be impeachable; but thought the cases ought to be enumerated & defined:

M<sup>r</sup> <sup>Madison</sup>—thought it indispensable that some provision should be made for defending the Community <sup>ag<sup>t</sup></sup> the incapacity, negligence or perfidy of the chief Magistrate. The limitation of <sup>his service, was not a sufficient security,</sup> the period of [“service” illegible words <sup>[“productive” stricken out]</sup> “his ineligibility” was no secur” stricken out]. He might lose his capacity after his appointment. He might pervert his administration into a scheme of peculation or oppression. He might betray his trust to foreign powers. The case of the Executive Magistracy was very distinguishable, from that [“of a more” stricken out] of the Legislative or of any other public body, holding offices of limited duration. It could [“rarely” stricken out] not be presumed that all or even a majority of the members of an Assembly would either lose their capacity for discharging, or be bribed to betray, their trust. Besides the restraints of their personal integrity & honor, the difficulty of acting in concert for purposes of corruption was a security to the public. And if one or a few members <sup>only</sup> should be seduced, the soundness of the remaining members, would maintain the integrity and fidelity of the body. In the case of the Executive Magistracy which was to be administered by a single man, [<sup>[“total” stricken out]</sup> “incapacity” <sup>loss of capacity</sup> stricken out] or corruption was more within the compass of probable events, and either of them might be fatal to the Republic.

Mr Pinckney did not see the necessity of impeachments. He was sure they ought not to issue from the Legislature who would in that case hold them as a rod over the Executive and by that means effectually destroy his independence. His revisionary power in particular would be rendered altogether insignificant.

Mr Gerry urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them. He hoped the maxim would never be adopted here that the chief Magistrate could do <sup>no</sup> wrong.

Mr King expressed his apprehensions that an extreme caution in favor of liberty might enervate the Government we were forming. ["We" stricken out] <sup>He</sup> wished the House to recur to the primitive axiom that the three great departments of Gov<sup>ts</sup> should be separate & independent: that the Executive & Judiciary should be so as well as the Legislative: that the Executive should be so equally with the Judiciary. Would this be the case, if the Executive should be impeachable? It had been said that the Judiciary would be impeachable. But it should have been ["said" stricken out] <sup>remembered</sup> at the same time that the Judiciary hold their places ["for life" stricken out] not for a limited time, but during good behaviour. It is necessary therefore that a forum should be established for trying misbehaviour. Was the Executive to hold his place during good behaviour? ["He wished this were the case. But it was not" stricken out]—The Executive was to hold his place for a limited term like the <sup>particularly the Senate whose members would continue in appointment the same term of 6 years</sup> members of the Legislature; Like them . he would periodically be tried for his behaviour by his electors, who would continue or discontinue him in trust according to the <sup>manner</sup> ["part he" stricken out] in which he had discharged it. Like



them therefore, he ought to be subject to no intermediate trial, by impeachment. He ought not to be impeachable unless he hold his office during good behavior, a tenure which would be most agreeable to him; provided an independent and effectual forum could be devised; But under no circumstances ought he to be impeachable by the Legislature. This would be destructive of his independence and of the principles of the Constitution. He relied on the vigor of the Executive as a great security for the public liberties.

M<sup>r</sup> Randolph. The propriety of impeachments was a favorite principle with him; Guilt wherever found ought to be punished. The Executive will have great opportunities of abusing his power; particularly in time of war when the military force, and in some respects the public money will be in his hands. Should no regular punishment be provided, it will be <sup>irregularly</sup> inflicted by tumults & insurrections. He is aware of the necessity of proceeding with a cautious hand, and of excluding as much as possible the influence of the Legislature from the business. He suggested for consideration an idea which had fallen [from Col Hamilton] of composing a forum out of the Judges belonging to the States: and even of requiring some preliminary inquest whether just grounds of impeachment existed.

Doct<sup>r</sup> Franklin ["thought" stricken out] mentioned the case of the Prince of Orange during the late war. An agreement was made between France & Holland; by which their two fleets were <sup>to</sup> unite at a certain time & place. The Dutch fleet did not appear. Every body began to wonder at it. At length it was suspected that the Statholder was at the bottom of the matter. This suspicion prevailed more & more. Yet as he could not be impeached and no regular examination took place, he remained in his office, and

strengthening his own party, as the party opposed to him became formidable, he gave birth to the most violent animosities & contentions. Had he been impeachable, a regular & peaceable inquiry would have taken place and he would <sup>if guilty</sup> have been duly punished, if innocent restored to the confidence of the public.

Mr King remarked that the case of the Stattholder was not applicable. He held his place for life, and was not periodically elected. In the former case impeachments are proper to secure good behaviour. In the latter they are unnecessary; the periodical ["trial" stricken out] responsibility to the["ir" stricken out] electors ["rendering them unnecessary" stricken out] being an equivalent security.

Mr Wilson [illegible word stricken out] observed that if the idea were to be pursued, the Senators who are to hold their places during the same term with the Executive. ought <sup>to</sup> be subject to impeachment & removal.

Mr Pinkney apprehended that some gentlemen reasoned on a supposition that the Executive was to have powers which would not be committed to him: ["and" stricken out] <sup>He presumed</sup> that his powers would be so circumscribed as to render impeachments unnecessary.

Mr Gov<sup>r</sup> Morris's opinion had been changed by the arguments used in the discussion. He was now sensible of the necessity of impeachments, if the Executive was to continue for any time in office. Our Executive was not like a Magistrate having a life interest, much less like one having an hereditary interest in his office. He may be bribed by a greater interest to betray his trust; and no one would say that we ought to expose ourselves to the danger of seeing the first Magistrate in foreign pay without being able to

guard ag<sup>st</sup> it by displacing him. One would think the King of England well secured ag<sup>st</sup> bribery. He has a fee simple <sup>as it were</sup> in the whole Kingdom. Yet Charles II was bribed by Louis XIV. The Executive ought therefore to be impeachable for treachery; Corrupting his electors, and incapacity were other causes of impeachment. For the latter he should be punished not as a man, but as an officer, and punished only by degradation from his office. This Magistrate is not the King but the prime-Minister. The people are the King. When we make him amenable to Justice however we should take care ["that mode" stricken out] <sup>to provide some mode that will</sup> not make him dependent on the Legislature.

Mas. & S. Carolina only being ay.  
It was moved & <sup>led</sup>, to postpone this question of impeachments which was negatived.

On y<sup>e</sup> Question, Shall the Executive be removeable on impeachments ["?" written upon "& "]c.?

Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo-ay-

"Executive to receive fixed compensation, ['to be paid out of the Nat<sup>l</sup> treasury' stricken out]". Agreed to nem. con-

"to be paid out of the National Treasury" agreed to, N. Jersey only in the negative

M<sup>r</sup> Gerry & Gov<sup>r</sup> Morris moved 'that the Electors of the Executive shall not be members of the Nat<sup>l</sup> Legislature, nor officers of the U. States, nor shall the Electors themselves be eligible to the ["Executive" stricken out] <sup>supreme</sup> Magistracy." Agreed to nem. con.

Doc<sup>t</sup> M<sup>c</sup>Clurg asked whether it would not be necessary, before a Committee for detailing the Constitution should be appointed, to determine on the means by which the Executive is to carry the laws into effect, and to resist combinations ag<sup>st</sup> them. Is he to have a military force for the purpose, or to have the command of the Militia, the only existing force that can be applied to that use? As the Resolutions now

Stand the Committee will have no determinate directions on this great point.

M<sup>r</sup> Wilson thought that some <sup>additional</sup> directions to the Committee w<sup>d</sup> be necessary.

M<sup>r</sup> King. The Committee [<sup>are to</sup> "must" stricken out] provide for the end. Their discretionary power to provide for the means is involved according to an established axiom.

Adjourned

#### Saturday July 21 in Convention

M<sup>r</sup> Williamson moved that the Electors of the Executive should be paid out of the National Treasury for the Service to be performed by them". Justice required this: as it was a national service they were to render. The motion was agreed to nem—con.

M<sup>r</sup> Wilson moved as an amendment to Resol<sup>n</sup> 10. that the <sup>supreme</sup> Nat<sup>l</sup> Judiciary should be associated with the Executive in the Revisionary power". This proposition had been before made, and failed; but he was so confirmed by reflection in the opinion [<sup>that it ought</sup> "that it ought" stricken out] of its utility, that he thought it incumbent on him to make another effort: ["The Judiciary" written upon "M<sup>r</sup> second"] ought to have an opportunity of remonstrating ag<sup>st</sup> projected encroachments on the [<sup>both</sup> "mselves" stricken out] <sup>people as well</sup> as on themselves. It had been said that the Judges, as expositors of the Laws would have an opportunity of defending their constitutional rights. There was weight in this observation; but this power of the Judges did not go far enough. Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet may not be so unconstitutional as to

justify the Judges in refusing to give them effect. Let them have a share in the Revisionary power, and they will have an opportunity of taking notice of these characters of a law, ["s" stricken out] and of counteracting, by the weight of their opinions the improper views of the Legislature.—<sup>Madison</sup> M<sup>r</sup> 2<sup>d</sup> the motion

M<sup>r</sup> Ghorum did not see the advantage of employing the Judges in this way. As Judges they are not to be presumed to possess any peculiar knowledge of the mere policy of public measures. Nor can it <sup>be</sup> necessary as a security for their constitutional rights. The Judges in England have no such additional provision for their defence, yet their jurisdiction is not invaded. He thought it would be best to let the Executive alone be responsible, and at most to authorize him to call on Judges for their opinions,

M<sup>r</sup> Elseworth approved heartily of the motion. The aid of the Judges will give more wisdom & firmness to the Executive. They will possess a systematic and accurate knowledge of the Laws, which the Executive can not be expected always to possess. The law of Nations also will frequently come into question. Of this the Judges alone will have competent information.

<sup>Madison</sup> M<sup>r</sup> — considered the object of the motion as of great importance to the meditated Constitution. It would <sup>be useful to the Judiciary departmt, by giving it</sup> ["giving" stricken out] an additional opportunity of defending itself ag<sup>st</sup> Legislative encroachments; It would be useful to the Executive, by inspiring additional confidence & firmness in exerting the revisionary power: It would be useful to the Legislature by the valuable assistance it <sup>would</sup> ["will" stricken out] give in preserving a consistency, conciseness, perspicuity & technical propriety in the laws, qualities peculiarly

necessary; & yet shamefully wanting in ["all the codes of all the States" stricken out] <sup>our republican Codes. It would</sup> moreover be useful to the Community at large as an additional check ["on" stricken out] <sup>ag<sup>st</sup> a pursuit of</sup> those unwise & unjust measures which constituted so <sup>solid</sup> great a portion of our calamities. If any objection could be urged ag<sup>st</sup> the motion, it must be on the supposition ["either" stricken out] that it tended to give too much strength either to the Executive or Judiciary. He did not think there was the least ground for this apprehension. It was much more to be apprehended that notwithstanding this ["combining" stricken out] <sup>co-operation</sup> of the two departments, the Legislature would still be an overmatch for them. Experience in all the States had ["proved" stricken out] evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger to the American Constitutions; & suggested the necessity of giving every defensive authority to the other departments that was consistent with republican principles.

Mr Mason said he had always been a friend to this provision. It would give a confidence to the Executive, which he would not otherwise have, and without which the Revisionary power would be of little avail.

Mr Gerry did not expect to see this point which had undergone full discussion, again revived. The object he conceived of the Revisionary power was merely to secure the Executive department ag<sup>st</sup> legislative encroachment. The Executive therefore who will best know and be ready to defend his rights ought alone to have the defence of them. The motion was liable to strong objections. It was combining & mixing together the Legislative & the other departments. It was establishing an <sup>improper</sup> coalition between the Executive & Judiciary



departments. It was making Statesmen of the Judges; and setting them up as the guardians of the Rights of the people. He relied for his part on the Representatives of the people as the guardians of their Rights & interests. It was making the Expositors of the Laws, the Legislators which ought never to be done. A better expedient for correcting the laws, would be to appoint as had been done in Pen<sup>a</sup> a person or persons of proper skill, to draw bills for the Legislature.

M<sup>r</sup> Strong thought with M<sup>r</sup> Gerry that the power of making ought to be kept distinct from that of expounding, the laws. No maxim was better established. The Judges in exercising the functions of expositors might be influenced by the part they had taken, in framing the laws.

M<sup>r</sup> Gov<sup>r</sup> Morris. Some check being necessary on the Legislature, the question is in what hands it should be lodged. On one side it was contended that the Executive alone ought to exercise it. He did not think [<sup>that</sup> "it would" stricken out] an Executive appointed for 6 years, and impeachable ["in the" stricken out] whilst in office w<sup>d</sup> be a very effectual check. On the other side it was urged that he ought to be reinforced by the Judiciary department. Ag<sup>st</sup> this it was objected that Expositors of laws ought ["not not" stricken out] to have no hand in making them, and arguments in favor of this had been drawn from England. What weight was due to them might be easily determined by an attention to facts. The truth was that the Judges in England had great share in <sup>ye</sup> Legislation. They are consulted in difficult & doubtful cases. They may be & <sup>some of them</sup> are members of the Legislature. They are or may be members of the privy Council, and can there advise the Executive as they <sup>will do with us</sup> ["motion proposes will do" stricken out] if the motion

succeeds. The["y" effaced] influence the English Judges  
<sup>Executive</sup>  
 in strengthening the check ["of" stricken out]  
 may have in the latter capacity can not be ascertained, as the  
<sup>by his influence</sup>  
 King in a manner dictates the laws. There is one difference  
 in the two Cases however which disconcerts all reasoning  
 from ["the analogy in" stricken out]<sup>the</sup> British to our pro-  
 posed Constitution. The British Executive has so great an  
<sup>and such powerful means of defending them</sup>  
 interest in his prerogatives that he will never yield any  
 part of them. The interest of our Executive is so inconsider-  
 able & so transitory, ["that" stricken out] and his means  
 of defending<sup>it</sup> ["them" stricken out] so feeble, that there is  
 the justest ground to fear his want of firmness in resisting  
 inroadments. He was extremely apprehensive that the  
 auxiliary firmness & weight of the Judiciary would not  
 supply the deficiency. He concurred in thinking the pub-  
 lic liberty in greater danger from Legislative usurpations  
 ["from" stricken out] than from any other source. It had  
 been said that the Legislature ought to be relied<sup>on</sup> as the  
 proper Guardians of liberty. The answer was short and  
 conclusive. Either bad laws will be pushed or not. On  
<sup>supposition</sup>  
 the latter ["no no" stricken out] no check will be wanted.  
 On the former a strong check will be necessary: And this  
 ["former" stricken out] is the proper supposition. Emission  
 of paper money, largesses to the people—<sup>a</sup> remission of  
 debts and similar measures, will ["some time" stricken out]  
 at sometimes be popular, and will be pushed for that reason  
 At other times such measures will coincide with the interests  
 of the Legislature themselves, & that will be a reason not  
 less cogent for pushing them. It m["ight" written upon  
 "ay"] be thought that the people will not be deluded and  
 misled in the latter case. But experience teaches another  
 lesson. The press is indeed a great means of diminishing  
 the evil, yet it is found to be unable to prevent it altogether.

Mr L. Martin. considered the association of the Judges with the Executive as a dangerous innovation; as well as one which, could not produce the particular advantage expected from it. A knowledge of mankind, and of Legislative affairs cannot be presumed <sup>to belong</sup> in a higher degree to the Judges than to the Legislature. And as to the Constitutionality of the laws, that point will come before the Judges in their proper official character. In this character they have a negative on the laws. Join them with the Executive in the Revision and they will have a double negative. It is necessary that the Supreme Judiciary should have the confidence of the people. This will soon be lost, if they are employed in the task of remonstrating ag<sup>st</sup> popular measures of the Legislature. Besides in what mode & proportion are they to vote in the Council of Revision?

Mr. Madison could not discover [“any violation of the maxim which requires the great departments of power to be kept separate” stricken out] in the proposed association of the Judges with the Executive in the Revisionary check on the Legislature. <sup>any violation of the maxim which requires the great departments of power to be kept separate & distinct</sup> On the contrary he thought it an auxiliary precaution in favor of the maxim. If a Constitutional discrimination of the departments on paper were a sufficient security to each ag<sup>st</sup> encroachments of the others, all further provisions would indeed <sup>be</sup> superfluous. But experience has taught us a distrust of that security; and that <sup>it is</sup> [“was” <sup>introduce</sup> stricken out] necessary to [“create” stricken out] such a balance of powers and interests, as will guarantee the provisions on paper. Instead therefore of contenting ourselves with laying down the Theory in the Constitution that each department ought to be separate & distinct, it was proposed to add a defensive power <sup>to each</sup> which should maintain the Theory in

practice. In so doing we did not blend the departments together. We erected effectual barriers for keeping them separate. The most regular example of this theory was in the British Constitution. Yet it was not only the practice there to admit the Judges to a seat in the legislature, ["and" stricken out] and in the Executive Councils, and to submit to their previous examination all laws of a certain description, but it was a part of their Constitution that the Executive might negative any law whatever; a part of their Constitution which had been universally regarded as ["essential" stricken out] calculated for the preservation of the whole. ["Besides" stricken out]. The objection ag<sup>st</sup> a union of <sup>the</sup> Judiciary & Executive branches in the revision of the laws, had either no foundation or was <sup>not</sup> carried far enough. If such a Union was an improper mixture of powers, or such a Judiciary check on the laws, was ["not" stricken out] inconsistent with the Theory of a free Constitution, it was equally so to admit the Executive to any participation in the making of laws; and the ["whole" stricken out] revisionary plan ought to be discarded altogether.

Col Mason Observed that the defence of the Executive was not the sole object of the Revisionary power. He expected even greater advantages from it. Notwithstanding the precautions taken in the Constitution of the Legislature, it would still so much resemble that of the individual States, that it must be expected frequently to pass unjust and pernicious laws. This restraining <sup>power</sup> was therefore essentially necessary. It would have the effect not only of hindering the final passage of such laws; but would discourage demagogues from attempting to get them passed. It had been

said [by M<sup>r</sup> L. Martin] that if the Judges were joined in this check on the laws, they would have a double negative, since in their ["official" stricken out]<sup>expository</sup> capacity of Judges they would have one negative. He would reply that in this capacity they would impede in case <sup>one</sup> only, the operation of laws. They could declare an unconstitutional law void. But with regard to every law however unjust oppressive or pernicious, which did not come plainly under this description, they would be under the necessity as Judges to give it a free course. He wished the further use to be made of the Judges, of giving aid in preventing every improper law. Their aid will be the more valuable as they are in the habit and practice of considering laws in their true principles, and in all their consequences.

M<sup>r</sup> Wilson. The separation of the departments does not require that they should have separate objects but that they should act separately tho' on the same objects. It is necessary that the two branches of the Legislature should be separate and distinct, yet they are ["to" stricken out] both to act precisely on the same object

M<sup>r</sup> Gerry had rather give the Executive an absolute negative for its own defence than then to blend together the Judiciary & Executive departments. It will bind them together in an offensive and defensive alliance ag<sup>t</sup> the Legislature, and render the latter unwilling to enter into a contest with them.

M<sup>r</sup> Gov<sup>t</sup> Morris was surprised that any defensive provision for securing the [<sup>effectual</sup> "mutual" stricken out] separation of the departments should be considered as an improper mixture <sup>of them</sup>. Suppose that these powers, were to be vested in three persons, by compact among themselves; that one was to have the

power of making—another of executing, and a third of judg-  
 ing, the laws. Would it not be very natural for the <sup>two</sup> latter  
 after having settled the partition on paper, to observe, and  
 [“w” written upon “it”]ould not candor oblige the former to  
 admit, that as a security ag<sup>st</sup> legislative acts of the former  
 which might easily be so framed as to undermine the powers  
 of the two others, the two others ought to be armed with a  
 veto for their own defense, or at least to have an opportunity  
 of stating their objections ag<sup>st</sup> acts of encroachment? And  
 [“would” written upon “that”] any one pretend that such  
 a right tended to blend & confound [“distinct” stricken  
 out] powers that ought to be separately exercised? [“Every  
 man must see that such a right had a tendency shortly to  
 bring ‘Take another illustration” stricken out] <sup>As well might it be said that</sup> If three  
 neighbours had three distinct farms, [“with” stricken out]  
 a right in each to defend his farm ag<sup>st</sup> his neighbours, tended  
 to blend the farms together.

M<sup>r</sup> Ghorum. All agree that a check on the Legislature is  
 necessary. But there are two objections ag<sup>st</sup> admitti[“n”  
 written upon “d”]g the Judges to share in it which [“no”  
 written upon “the”] observations on the other side seem to  
 obviate. the 1<sup>st</sup> is that the Judges ought to carry into the  
 exposition of the laws no prepossessions with regard to them.  
 2<sup>d</sup> that as the Judges will outnumber the Executive, the  
 revisionary check would be thrown entirely out of the Execu-  
 tive hands, and instead of enabling him to defend himself,  
 would enable the Judges to sacrifice him.

M<sup>r</sup> Wilson. The proposition is certainly <sup>not</sup> liable to all the  
 objections which have been urged ag<sup>st</sup> it. According to [M<sup>r</sup>  
 Gerry] it will unite the Executive & Judiciary in an offensive  
 & defensive alliance ag<sup>st</sup> the Legislature. According to M<sup>r</sup>



Ghorum it will lead to a subversion of <sup>the</sup> Executive by the Judiciary influence. To the first gentleman the answer was obvious; that the joint weight of the two departments was necessary to balance the single weight of the Legislature. To the 1<sup>st</sup> objection stated by the other Gentleman it <sup>might</sup> be answered that supposing the prepossession to mix itself with the exposition, the evil would be overbalanced by the advantages promised by the expedient. To the 2<sup>d</sup> objection, that such a rule of voting might be provided in the detail as would guard ag<sup>st</sup> it.

M<sup>r</sup> Rntlidge thought the Judges of all men the most unfit to be concerned in the revisionary Council. The Judges ought never to give their opinion on a law till it comes before them. He thought it equally unnecessary. The Executive could advise with the officers of State, as of war, finance &c. and avail himself of their information and opinions.

On Question on M<sup>r</sup> Wilson's motion for joining the Judiciary in the Revision of laws it passed in the negative —

Mas. no. Con<sup>t</sup> ay. N. J. not present. P<sup>a</sup> div<sup>d</sup> Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. div<sup>d</sup>

["Question <sup>Resol: 10</sup> 'The clause' <sup>giving the Ex. a qualified veto</sup> stricken out] without the amendm<sup>t</sup> was then ag<sup>d</sup> to nem. con.

The motion made by M<sup>r</sup> <sup>Madison</sup> July 18. & then postponed, ["for" stricken out] "that the Judges sh<sup>d</sup> be nominated by the Executive & such nominations become appointments unless disagreed to by  $\frac{2}{3}$  of the 2<sup>d</sup> branch of the Legislature," was now resumed.

M<sup>r</sup> ["Madis" <sup>Madison</sup> stricken out] stated as his reasons for the motion, 1 that it secured the responsibility of the Executive who would in general be ["most" <sup>more</sup> stricken out] capable & likely to select fit characters than the Legislature, or even

the 2<sup>d</sup> b. of it, [<sup>wh<sup>i</sup></sup> "which" stricken out] might hide their selfish motives under the number concerned in the appointment-2 that in case of any flagrant [<sup>nomination</sup> "vote of" stricken out] partiality or error, in the [<sup>when</sup> "Executive" stricken out], it might be fairly presumed that 2<sub>3</sub> of the 2<sup>d</sup> branch would join in putting a negative on it. 3. that as the 2<sup>d</sup> b. was very differently constituted [<sup>to it</sup> "which" stricken out] the appointment of the Judges was formerly referred, and was now to be composed of equal votes from all the States, the principle of compromise which had prevailed in other instances required in this that their sh<sup>d</sup> be a concurrence of two authorities, in one of which the people, in the other the states, should be represented. The Executive Magistrate w<sup>d</sup> be considered as a national officer, acting for and equally sympathising with every part of the U. States. If the 2<sup>d</sup> [<sup>branch</sup> "b." stricken out] alone should have this power, the Judges might be appointed by a minority of the people, tho' by a majority, of the States, which could not be justified on any principle as the [<sup>ti</sup> "it" written upon "y"] [<sup>as</sup> "own" stricken out] proceedings were to relate to the people, rather than to the States: and [<sup>as</sup> "that" stricken out] it would moreover throw the appointments entirely into the hands of ye N<sup>t</sup>hern States, a perpetual ground of jealousy & discontent would be furnished to the Southern States.

M<sup>r</sup> Pinkney was for placing the appointm<sup>t</sup> in the 2<sup>d</sup> b. exclusively. The Executive will possess neither the requisite knowledge of character, nor confidence of the people for so high a trust.

M<sup>r</sup> Randolph w<sup>d</sup> have preferred the mode of appointm<sup>t</sup> proposed formerly by M<sup>r</sup> Ghorum, as adopted in the Constitution of Mass<sup>ts</sup> but thought the motion depending so great an

improvement of the clause as it stands, that he anxiously wished it success. He laid great stress on the responsibility of the Executive as a security for fit appointments. Appointments by the Legislatures have generally resulted from cabal, from personal regard, or some other consideration than ["the" stricken out] a title derived from the proper qualifications. The same inconvenience will proportionally prevail if the appointments be referred to either branch of the Legislature or to any other authority administered by a number of individuals.

Mr Elseworth would prefer a negative in the Executive on a nomination by the 2<sup>d</sup> branch, the negative to be overruled by a concurrence of  $\frac{2}{3}$  of the 2<sup>d</sup> b. to the mode proposed by the motion; but preferred an absolute appointment <sup>by the 2<sup>d</sup> branch</sup> to either. The Executive will be regarded by the people with a jealous eye. Every power for augmenting unnecessarily his influence will be disliked. As he will be stationary it was not to be supposed he could have a better knowledge of characters. He will be more open to caresses & intrigues than the Senate. The right to supersede his nomination will be ideal only. A nomination under such circumstances will be equivalent to an appointment.

Mr Gov<sup>r</sup> Morris supported the motion. 1. The States in their corporate capacity will frequently have an interest staked on the determination of the Judges. As the Senate <sup>in</sup> the States are to vote the Judges ["then" stricken out] ought not to be appointed by the Senate. Next to the impropriety of being Judge in one's own cause, is the appointment of the Judge. 2. It had been said the Executive would be uninformed of characters. The reverse was <sup>ye</sup> truth. The Senate will be so. They must take the

character of candidates from the ["partial" stricken out] flattering pictures drawn by their friends. The Executive in the necessary intercourse with every part of the U. S. required by the nature of his administration, will ["have" stricken out] or may have the best possible information.

3. It had been said that a jealousy would be entertained of the Executive. If the Executive can be safely trusted with the command of the army, there can not surely be any reasonable ground of Jealousy in the present case. He added that if the Objection ag<sup>st</sup> an appointment of the Executive by the Legislature, had the weight that had been allowed there must be some weight in the objection to an appointment of the Judges by the Legislature or by any part of it.

Mr Gerry. The appointment of the Judges like every other part of the Constitution sh<sup>d</sup> be so modeled as to give satisfaction both to the people and to the States. The mode under consideration will give satisfaction to neither. He could not conceive that the Executive could be as well informed of characters throughout the Union, as the Senate. It appeared to him also a strong objection that  $\frac{2}{3}$  of the ["S" written upon "2<sup>d</sup>"]enate were required to reject a nomination of the Executive. The Senate would be constituted in the same manner as Congress. And the appointments of Congress have been generally good.

Mr Madison, observed that he was not anxious that  $\frac{2}{3}$  should be necessary to disagree to a nomination. He had given this form to his motion chiefly to vary it the more clearly from one which had just been rejected. He was content to obviate the objection last made, and accordingly so varied the motion as to let a majority reject.

Col. Mason ["said he could" stricken out] found it his duty to differ from his colleagues in their opinions & reasonings on this subject. Notwithstanding the form of the proposition by which the appointment seemed to be divided between the Executive & Senate, the appointment was substantially vested in the former alone. The false complaisance which usually prevails in such cases will prevent a disagreement to the first nominations. He considered the appointment by the Executive as a dangerous prerogative. It might even give him an influence over the Judiciary department itself. He did not think the difference of interest between the Northern and Southern <sup>States</sup> could be properly brought into this argument. It would operate & require some precautions in the case of regulating navigation, commerce & imposts; but he could not see that it had any connection with the Judiciary department.

On the question, the motion now being "that the executive should nominate, & such nominations should become appointments unless disagreed to by the Senate"

Mas. ay. C<sup>t</sup> no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

On question for agreeing to the clause as it stands by which the Judges <sup>are</sup> to be appointed by 2<sup>d</sup> branch

Mas. no. C<sup>t</sup> ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

Adjourned

Monday, July. 23. in Convention.

Mr. John Langdon & Mr. Nicholas Gilman from N. Hampshire took their seats.

Resol<sup>n</sup> 17. that provision ought to be made for future <sup>con</sup> amendments of the articles of Union. Agreed to nem .

Resol<sup>n</sup> 18. "requiring the Legis: Execut: & Jud<sup>y</sup> of <sup>the</sup> States to be bound by oath to support the articles of Union". taken into consideration.

M<sup>r</sup> Williamson suggests that a reciprocal <sup>oath</sup> should be required from the National officers, to support the Governments of the States.

M<sup>r</sup> Gerry moved to insert as an amendm<sup>t</sup> that the <sup>oath of the</sup> Officers of the National Government <sup>also</sup> should ["also" stricken out] extend to the support of the Nat<sup>l</sup> Gov<sup>t</sup> which was agreed to nem. con.

M<sup>r</sup> Wilson said he was never fond of oaths, considering them as a left handed security only. A good Gov<sup>t</sup> did not need them. and a bad one could not or ought not to be supported. He was afraid they might too much trammel the the Members of the Existing Gov<sup>t</sup> in case future alterations should be necessary; and prove an obstacle to ["the" stricken out] Resol: 17. just ag<sup>d</sup> to.

M<sup>r</sup> Ghorum did not know that oaths would be of much use; but could see no inconsistency between them and the 17. Resol: or any regular amend<sup>t</sup> of the Constitution. The oath could only require fidelity to the existing Constitution. A constitutional alteration of the Constitution, could never be regarded as a breach of the Constitution, or of any oath to support it.

M<sup>r</sup> Gerry thought with M<sup>r</sup> Ghorum there could be no shadow of inconsistency in the case. Nor could he see any other harm that would result from the Resolution. On the other side he thought one good effect would be produced by it. Hitherto the officers of <sup>the two</sup> Governments had considered them as distinct from, not as parts of the-General System, & had in all cases of interference given a preference to the State Gov<sup>ts</sup>. The proposed oaths will cure that error. —



The Resol<sup>n</sup> [18]. was agreed to nem. con.—

Resol: 19. referring the new Constitution to Assemblies to be chosen by the people for the express purpose of ratifying it" was next taken into consideration.

Mr Elseworth moved that it be referred to the Legislatures of the States for ratification. Mr Patterson 2<sup>d</sup>ed the motion.

Col. Mason considered a reference of the plan to the authority of the people as one of the most important and essential of the Resolutions. The Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators. And he knew of no power in any of the Constitutions, he knew there was no power in some of them, that could be competent to this object. Whither then must we resort? To the people with whom all power remains that has not been given up in the Constitutions derived from them. It was of great moment he ["contended" stricken <sup>observed</sup> out] that this doctrine should be cherished as the basis of free Government. Another strong reason was that admitting the Legislatures to have a competent authority, it <sup>would</sup> be wrong to refer the plan to them, because succeeding Legislatures having equal authority could undo the acts of their predecessors; and the National Gov<sup>t</sup> <sup>in each State</sup> would stand on the weak and tottering foundation of an Act of Assembly. There was a remaining consideration of some weight. In some of the States the Gov<sup>ts</sup> were <sup>not</sup> derived from the clear & undisputed authority of the people. This was the case in Virginia. Some of the best & wisest citizens considered the Constitution <sup>as</sup> established by an assumed authority. <sup>National</sup> A Constitution derived from such a source would be exposed to the severest criticisms.

Mr Randolph. One idea has pervaded all <sup>our</sup> proceedings,

to wit, that opposition as well from the States as from individuals, will be made to the System to be proposed. Will it not then be highly imprudent, to furnish any unnecessary pretext by the mode of ratifying it. Added to other objections ag<sup>st</sup> a ratification by Legislative authority only, it may be remarked that there have been instances in which the authority of the Common law has been set up in particular States ag<sup>st</sup> that of the Confederation which has had no higher sanction than Legislative ratification.—Whose opposition will be most likely to be excited ag<sup>st</sup> the System? That of the <sup>local</sup> demagogues who will be degraded by it [“it” written upon “the”] from the importance they now hold. These will spare no efforts to impede[“d” effaced] that progress in the popular mind which will be necessary to the adoption of the plan, and which every member will find to have taken place in his own, if he will compare his present opinions with those brought with him into the Convention. <sup>the consideration of this subject should be transferred from the Legislatures where</sup> It is of great importance therefore that this class of men, [“should” stricken out] have their full influence to a field in which their efforts can be less mischeivous. It is moreover worthy of consideration that some of the States are averse to any change in their Constitution, and will not take the requisite steps, unless expressly called upon to refer the question to the people.

Mr Gerry. The arguments of Col. Mason & Mr Randolph prove too much, they prove [“the” stricken out] an unconstitutionality in the present federal <sup>system</sup> [“&” written upon “of”] even in some of the State Gov<sup>ts</sup>. Inferences drawn from such a source must be inadmissable. Both the State Gov<sup>ts</sup> & the federal Gov<sup>t</sup> have been too long acquiesced in, [<sup>now</sup> “now” stricken out] to be shaken. He considered the

Confederation to be paramount to any State Constitution. The last article of it [<sup>authorizing alterations must consequently</sup> "then must" stricken out] be so as well as the others, and everything done in pursuance of the article must have the same high authority with the article.—Great confusion he was confident would result from a recurrence to the people. They would never agree on any thing. He could not see any ground to suppose that the people will do what their rulers will not. The rulers will either conform to, or influence the sense of the people.

Mr Ghorum was ag<sup>st</sup> referring the plan to the Legislatures.

1. Men chosen by the people for the particular purpose, will discuss the subject more candidly than members of the Legislature who are to lose the power which is to be given up to the Gen<sup>l</sup> Gov<sup>t</sup>
2. Some of the Legislatures are composed of several branches. It will consequently be more difficult in these cases to get the plan through the Legislatures, than thro' a Convention.
3. in the States many of the ablest men are excluded from the Legislatures, ["who" stricken out] but may be elected into [<sup>a Convention</sup> "the Legisla" stricken out] Among these may be ranked many of the Clergy who are generally friends to good Government. Their services were found to be valuable in the formation & establishment of the Constitution of Massach<sup>ts</sup>
4. the Legislatures will be interrupted with a variety of little business. which, <sup>by artfully pressing</sup> designing men will find means to delay from year to year, if not to frustrate altogether the national system.
- 5—If the last art: of the Confederation is to be pursued the unanimous concurrence of the States will be necessary. But will any one say, that all the States are to suffer themselves to be ruined, if Rho. Island should persist in her opposition to general measures. Some

other States might also tread in her steps. The present advantage which N. York["s" stricken out] seems to be so much attached to, of taxing her neighbours <sup>by the regulation of her trade</sup>, makes it very probable, that she will <sup>be</sup> of the number. It would therefore deserve serious consideration whether provision ought not to be made for giving effect to the System without waiting for the unanimous concurrence of the States.

Mr Elsworth. If there be any Legislatures who should find themselves incompetent to the ratification, he should be content to let them advise with their constituents and pursue such a mode as w<sup>d</sup> be competent. He thought more was to be expected from the Legislatures than from the people. The prevailing wish of the people in the Eastern States is to get rid of the public debt; and the idea of strengthening the Nat<sup>l</sup> Gov<sup>t</sup> carries with it that of strengthening the public debt. It was said by Col. Mason 1. that the Legislatures have no authority in this case. 2. that their successors having equal authority could rescind their acts. As to the 2<sup>d</sup> point he could not admit ["that" stricken out] it to be well founded. An Act to which the States by their Legislatures, make themselves parties, becomes a compact from which no["ne" stricken out] <sup>one</sup> of the parties can recede of itself. As to the 1<sup>st</sup> point, he observed that a new sett of ideas seemed to have crept in since the articles of Confederation were established. Conventions of the people, or with power derived expressly from the people, were not then thought of. The Legislatures were considered as competent. Their ratification has been acquiesced in without complaint. To whom have Cong<sup>s</sup> applied on subsequent occasions for further powers? To the Legislatures; not to the people. The fact is that we exist at present, and we need not enquire how, as a

federal Society, united by a charter one article of which is that alterations therein may be made by the Legislative authority of the States. It has been said that if the confederation is to be observed, the States must unanimously concur in the proposed innovations. He would answer that if such were the urgency & necessity of our situation as to warrant a new compact among ["but" stricken out] a part of the States, founded on the consent of the people; the same pleas would be equally valid in favor of a partial compact, founded on the consent of the Legislatures.

Mr Williamson thought the Resol<sup>n</sup> [19] so expressed that it might be submitted either to the Legislatures or to Conventions recommended by the Legislatures. He observed that some Legislatures were evidently unauthorized to ratify the system. He thought too that Conventions were to be preferred as more likely to be composed of the ablest men in the States.

Mr Gov<sup>r</sup> Morris considered the inference of Mr Elsworth from the plea of necessity ["in favor" stricken out] as applied to the establishment of a new System on y<sup>e</sup> consent of the people of a <sup>part</sup> ["number" stricken out] of the States, ["less than the whole" stricken out], in favor of a like establishment on the consent of a part of the Legislatures as a non sequitur. If the Confederation is to be pursued no alteration can be made without the unanimous consent of the Legislatures: Legislative alterations not conformable to the federal compact, would clearly not be valid. The Judges would consider them as null & void. Whereas in case of an appeal to the people, <sup>of the U. S.</sup> the supreme authority, the federal compact may be altered by a majority of them; in like manner as the Constitutions of a particular State may be altered by a

majority of the people of the State. The amendment moved by Mr Elseworth erroneously supposes that we are proceeding on the basis of the Confederation. This Convention is unknown to the Confederation.

Mr King thought with Mr Elseworth that the Legislatures had a competent authority, the acquiescence of the people of America in the Confederation, ["amounting to a full" stricken out] being equivalent to a formal ratification by the people. He thought with Mr E— also that the plea of necessity was as valid in the one case["s" stricken out] as in the other. At the same time he preferred a reference to the ["people as" stricken out] authority of the people expressly delegated to ["a" stricken out] Conventions, as the most certain means of obviating all disputes <sup>& doubts</sup> concerning the legitimacy of the new Constitution; as well as the most likely means of drawing forth the best men in the States to decide on it. He remarked that among other objections made in the State of N. York to granting powers to Cong<sup>s</sup> one had been that such powers as operate within the State, could not be reconciled to the Constitution; and therefore were not grantible by the Legislative authority. He considered it as of some consequence also to get rid of the scruples which some members of the <sup>State Legislatures might</sup> ["Legis State Govt<sup>s</sup> might feel" stricken out] derive from their oaths to support & maintain the existing Constitutions.

Mr <sup>Madison</sup> thought it clear that the Legislatures were incompetent to the proposed changes. These changes would make essential inroads on the State Constitutions, and it would be a novel & dangerous doctrine that a Legislature could change the constitution under which it held its existence. There might indeed be some Constitutions within the



Union, which had given, ["such" stricken out] a power to the Legislature to concur in alterations of the federal Compact. But there were certainly some which had not; and ["to" stricken out] in the case of these, a ratification must of necessity be obtained from the people. He considered the difference between a system founded on the Legislatures only, and one founded on the people, to be the true difference between a league [<sup>or</sup> "and" stricken out] treaty, and a Constitution. The former in point of moral obligation might be as inviolable as the latter. In point of political [<sup>operation</sup> "obligation" stricken out], there were two important distinctions in favor of the latter. 1. A law violating a treaty ratified by a pre-existing law, might be respected by the Judges as a law, though an unwise & perfidious one. A law violating a constitution established by the people themselves, would be considered by the Judges as null & void. 2. The doctrine laid down by the law of Nations in the case of treaties is that a breach of any one article by any of the parties, frees the other parties from their engagements. In case of a ["Constitutional" stricken out] union of people under one Constitution, the nature of the pact has always been understood to exclude such an interpretation. Comparing the two modes in point of expediency he thought all the considerations which recommended this Convention in preference ["of the" <sup>to Congress for proposing the reform</sup> stricken out], were in favor of State Conventions in preference to the Legislatures for examining and adopting it.

On question on M<sup>r</sup> Elsworth's motion to refer the plan <sup>the</sup> to Legislature of the States

["N. H." written upon "Mas."] no. Mas. no. C<sup>t</sup> ay. ["N. J." stricken out]. no. P<sup>a</sup> no- Del. ay- M<sup>d</sup> ay. V<sup>a</sup> no. N- C- no. S. C- no. Geo. no.

M<sup>r</sup> Gov<sup>r</sup> Morris moved that the reference [<sup>of the plan</sup> "for adoption" stricken out] be made to one general Convention, chosen & authorized by the people to consider, amend, & establish the same.—Not seconded.

On question for agreeing to Resolution 19, touching the mode of Ratification <sup>ported from the Committee of the Whole; viz, to refer the</sup> as re Const<sup>n</sup>, after the approbation of Cong<sup>s</sup>, to assemblies chosen by the people.

N. H. ay. Mas- ay. C<sup>t</sup> ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris & M<sup>r</sup> King moved that the representation in the second branch consist of            members from each State, who shall vote per capita.

M<sup>r</sup> Elseworth said he had alway approved of voting in that mode.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to fill the blank with three. He wished the Senate to be a pretty numerous body. If two members only should be allowed to each State, and a majority be made a quorum ["the" stricken out] the power would be lodged in 14 members, which was too small a number for such a trust.

M<sup>r</sup> Ghorum preferred two to three members for the blank. A small number <sup>was</sup> most convenient for deciding on peace & war &c. which he expected would be vested in the 2<sup>d</sup> branch. The number of States will also increase. Kentucky, Vermont, the province of Mayne & Franklin will probably soon be added to the present number. He presumed also that some of the largest States would be divided. The strength of the general Gov<sup>t</sup> will be not in the largeness, but in the smallness of the States.

Col. Mason thought 3 <sup>from each State including new States</sup> would make the 2<sup>d</sup> branch too numerous. Besides other objections, the additional expense <sup>absolutely</sup> ought always to form one, where it was not necessary.

M<sup>r</sup> Williamson. If the numer<sup>b</sup>["ous" stricken out] be too great, the distant States will not be on an equal footing with the nearer States. The latter can more easily send & support their ablest Citizens. He approved of the voting per capita.

On the question for filling the blank with "three"

N. H. no. Mas. no. Con<sup>t</sup> no. P<sup>a</sup> ay. Del. no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

On question for filling it with "two." Agreed to nem- con,

M<sup>r</sup> L. Martin was opposed to voting per Capita, as departing from the idea of the States being represented in the 2<sup>d</sup> branch.

M<sup>r</sup> Carroll, was not struck with any particular objection ag<sup>st</sup> the mode; but he did not so <sup>wish</sup> hastily to make so material an innovation.

On the question on the whole motion viz. the 2<sup>d</sup> b. to consist of 2 members from each State and to vote per capita."

N. H. ay. Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Houston & M<sup>r</sup> Spaight moved "that the appointment of the Executive by Electors chosen by the Legislatures of the States, be reconsidered." M<sup>r</sup> Houston urged the extreme inconveniency & the considerable expense, of drawing together men from all the States for the single purpose of electing the Chief Magistrate.

On the question which was put without any debate

N. H. ay. Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> no. Del—ay. M<sup>d</sup> no. Virg<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

Ordered that to morrow be assigned for the reconsideration.

Con<sup>t</sup> & Pen<sup>a</sup>. no—all the rest ay—

M<sup>r</sup> Gerry moved that the proceedings of the Convention

for the establishment of a Nat<sup>l</sup> Gov<sup>t</sup> (except the part relating to the Executive), be referred to a Committee to prepare & report a Constitution conformable thereto.

Gen<sup>l</sup> Pinkney reminded the Convention that if the Committee should fail to insert some security to the Southern States ag<sup>st</sup> an emancipation of slaves, and taxes on exports, he sh<sup>d</sup> be bound by duty to his State to vote ag<sup>st</sup> their Report.—[“On” stricken out] The app<sup>t</sup> of a Com<sup>e</sup> as moved by M<sup>r</sup> Gerry. Ag<sup>d</sup> to nem.<sup>con.</sup>

[“N. H. ay” stricken out].

Shall the Com<sup>e</sup> consist of 10 members.<sup>one from each State prest.</sup>—All the States were no. except Delaware. ay.

Shall it consist of 7. members.

N. H. ay Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> no.  
N. C. no. S. C. ay. Geo. no. The question being lost <sup>by an equal division of Votes.</sup>

It was agreed nem—con—that the Committee consist of 5 members, to be appointed tomorrow.

Adjourned

Tuesday July 24. in Convention

The appointment of the Executive by Electors reconsidered.

M<sup>r</sup> Houston moved that he be appointed by the “Nat<sup>l</sup> instead of “Electors appointed by the State Legislatures” according to the last decision of the mode Legislature. He dwelt chiefly on the improbability, that capable men would undertake the service of Electors from the more distant States.

M<sup>r</sup> Spaight seconded the motion.

M<sup>r</sup> Gerry opposed it. He thought there was no ground to apprehend the danger urged by M<sup>r</sup> Houston. The election of the Executive Magistrate will be considered as of vast

importance and will create great earnestness. The best men, the Governours of the States will not hold it derogatory from their character to be the electors. If the motion should be agreed to, it will be necessary to make the Executive ineligible a 2<sup>d</sup> time, in order to render him independent of the Legislature; which was an idea extremely repugnant to his way of thinking.

M<sup>r</sup> Strong ["s" written upon "p"] supposed that there would <sup>be</sup> no necessity, if the Executive should be appointed by the Legislature, to make him ineligible a 2<sup>d</sup> time; as ["a" stricken out] new elections of the Legislature will have intervened; and he will not [<sup>depend for</sup> "derive" stricken out] his 2<sup>d</sup> appointment [<sup>on</sup> "from" stricken out] the same sett of men as his first was rec<sup>d</sup> from. It had been suggested that gratitude for his <sup>past</sup> appointment w<sup>d</sup> produce the same effect as dependence for his future appointment. He thought very differently. Besides this objection would lie ag<sup>st</sup> the Electors who would be objects of gratitude as well as the Legislature. It was of great importance not to make the Gov<sup>t</sup> too complex which would be the case if a new sett of men like the Electors should be introduced into it. He thought also that the first characters in the States would not feel sufficient motives to undertake the office of Electors.

M<sup>r</sup> Williamson was for going back to the original ground; to elect the Executive for 7 years and render him ineligible a 2<sup>d</sup> time. The proposed Electors would certainly not be men of the 1<sup>st</sup> nor even of the 2<sup>d</sup> grade in the States. These would all prefer a seat either in the Senate or the other branch of the Legislature. He did not like the Unity in the Executive. He had wished the Executive power to be lodged in three men taken from three districts into which the States

should be divided. As the ["the" stricken out] Executive is to have a kind of veto on the laws, and there is an essential difference of interests between the N. & S. States, particularly in the carrying trade, ["his" stricken out] the power will be dangerous, if the Executive is to be taken from part of the Union, to the part from which he is not taken. The case is different here from what it is in England; where there is a sameness of interest throughout the Kingdom. Another objection ag<sup>t</sup> a single Magistrate is that he will be an elective King, and will feel the spirit of one. He will spare no pains to keep himself in for life, and will then lay a train for the succession of his children. It was pretty certain he thought<sup>he</sup> that we should at some time or other have a King; but wished no precaution to be omitted that might postpone the event as long as possible.—Ineligibility a 2<sup>d</sup> time appeared to him to be the precaution. With this precaution he had no objection to a longer term than 7 years. He would go as far as 10 or 12 years.

M<sup>r</sup> Gerry moved that the Legislatures of the States should<sup>vote by</sup> ballot for the Executive in the same proportions as it had been proposed they should chuse electors; and that in case a majority of the votes should<sup>not</sup> center on the same ["individ" stricken out] person, the 1<sup>st</sup> b. of the Nat<sup>l</sup> Legislature should<sup>branch</sup> chuse two out of the 4 candidates having most votes, and out of these two, the 2<sup>d</sup> b. should<sup>branch</sup> chuse the Executive.

M<sup>r</sup> King seconded the motion—and on the Question to postpone in order to take it into consideration, The noes were so predominant that the States were not<sup>in</sup> ["called" stricken out]<sup>counted</sup>.

Question on M<sup>r</sup> Houston's motion that the Executive be app<sup>d</sup> by Na<sup>l</sup> Legislature



N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> L. Martin & M<sup>r</sup> Gerry moved to reinstate the ineligibility of the Executive <sup>a</sup> 2<sup>d</sup> time.

M<sup>r</sup> Elseworth. With many this appears a natural consequence of his being elected by the Legislature. It was not the case with him. The Executive he thought should be reelected if his conduct proved him worthy of it. And he will be more likely to render him <sup>self</sup> worthy of it if he be rewardable with it. The most eminent characters <sup>also</sup> will be more willing to accept the trust under this condition, than if they foresee a necessary degradation at a fixt period.

M<sup>r</sup> Gerry. That the Executive sh<sup>d</sup> be independent of the Legislature is a clear point. The longer the duration of his appointment the more will his dependence be diminished—It will be better than for him to continue 10, 15, or even 20—years and be ineligible afterwards.

M<sup>r</sup> King was for making him re-eligible. This is too great an advantage to be given up for the small effect it will have on his dependence, if impeachments are to lie. He considered these as rendering the tenure during pleasure.

M<sup>r</sup> ["M" written upon "L."] Martin, suspending his motion as to the ineligibility, moved "that the appointment of the Executive shall continue for Eleven years.

M<sup>r</sup> Gerry suggested fifteen years.

M<sup>r</sup> King twenty years. This is the medium life of princes.

[\*This might possibly be meant as a caricature of the previous motions in order to defeat the object of them.

M<sup>r</sup> Davie Eight years

M<sup>r</sup> Wilson. The difficulties & perplexities into which the House is thrown proceed from the election by the Legislature

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\* transfer hither

which he was sorry had been reinstated. The inconveniency of this mode was such that he would agree to almost any length of time in order to get rid of the dependence which must result from it. He was persuaded that the longest term would not be equivalent to a proper mode of election, unless indeed it should be during good behaviour. It seemed to be supposed that at a certain advance of life, ["public service" <sup>a continuance in office</sup> stricken out] would cease to be agreeable to the officer, as well as desirable to the public. Experience had shewn in a variety of instances that both a capacity & inclination for public service existed—in very advanced stages. He mentioned the instance of a Doge of Venice who was elected after he was 80 years of age. The popes have generally been elected at very advanced periods, and yet in no case had a more steady or a better concerted policy been pursued than in the Court of Rome. If the Executive should come into office at 35 years of age, ["and" stricken out] which he presumes may happen & ["sh<sup>d</sup> he" stricken out] his continuance should be fixt at 15 years. at the age of 50. <sup>in</sup> the very prime of life, and with all the aid of experience, he must be cast aside like <sup>a</sup> useless hulk. What an irreparable loss would the British Jurisprudence have sustained, had the age of 50. been fixt there as the ultimate limit of capacity or readiness to serve the public. The great luminary [L<sup>d</sup>. Mansfield] held his seat for thirty years after his arrival at that age. Notwithstanding what had been done he could not but hope that a better mode of election would yet be adopted; and one that would be more agreeable to the general sense of the House. That time might be given for further deliberation he w<sup>d</sup> move that the present question be postponed till tomorrow.

M<sup>r</sup> Broom seconded the motion to postpone.

Mr Gerry. We seem to be entirely at a loss on this head. He would suggest whether it would not be advisable to refer the clause relating to the Executive to the Committee of detail to be appointed. Perhaps they will be able to hit on something that may unite the various opinions which have been thrown out.

Mr Wilson. As the great difficulty seems to spring from the mode of election, he w<sup>d</sup> suggest a mode which had not been mentioned. It was that the Executive be elected by a small number, not more 15 of the Nat<sup>l</sup> Legislature, to be drawn from it, not by ballot, but by lot and who should retire immediately and make the election <sup>for 6 years</sup>. By this mode <sup>without separating</sup> intrigue would be avoided in the first instance, and the dependence would be diminished. This was not he said a digested idea and might be liable to strong objections.

Mr Gov<sup>r</sup> Morris. Of all possible modes of appointment that by the Legislature is the worst. If the Legislature is to appoint, and to impeach or to influence the impeachment, the Executive will be the mere creature of it. He had been opposed to the impeachment, but ["had" stricken out] was now convinced that ["if" stricken out] impeachments must be provided for, if the app<sup>t</sup> was to be of any duration. No man w<sup>d</sup> say, that an Executive known to be in the pay of an Enemy, should not be removable in some way or other. He had been charged <sup>heretofore</sup> [by Col. Mason] with inconsistency in ["saying" stricken out] pleading for confidence in the Legislature on some occasions, & urging a distrust on others. The charge was not well founded. The Legislature is worthy of unbounded confidence in some respects, and liable to equal distrust in others. When their interest coincides precisely with that of their Constituents, as happens in many of their

Acts, no abuse of trust is to be apprehended. When a strong personal interest happens to be opposed to the general interest, the Legislature can not be too much distrusted. In all public bodies there are two parties. The Executive will necessarily be more connected with one than with the other. There will be a personal interest therefore in one of the parties to oppose [<sup>as well as in</sup> "and in" stricken out] the other to support him. Much had been said of the intrigues that will be practiced by the Executive to get into office. Nothing had been said <sup>on the</sup> other side of the intrigues to get him out of office. Some leader of party will always covet his seat, will perplex his administration, will cabal with the Legislature, till he succeeds in supplanting him. This was the way in which the King of England was got out, he meant the real King, the Minister. ["Fox was for pushing" stricken out] This was the way in which Pitt forced himself into place. Fox was for pushing the matter still farther. If he had carried his India bill, which he was very near doing, he would have made the Minister, the King in form almost as well as in substance. Our ["King" stricken out<sup>President</sup>] will be the British Minister, yet we are about to make <sup>him</sup> appointable by the Legislature. Something had been said of the danger of Monarchy—If a good government should not now be formed, if ["the" stricken out] a good organization of the Executive should <sup>not</sup> be provided, he doubted whether we should [<sup>" "</sup> stricken out] not have something worse than a limited Monarchy. In order to get rid of the dependence of the Executive on the Legislature, the expedient of making him ineligible a 2<sup>d</sup> time had been devised. This was as much as to say we sh<sup>d</sup> give him the benefit of experience, and then deprive ourselves of the use of it. But make him ineligible a 2<sup>d</sup> time—and pro-

long his duration even to 15-years, will he by any wonderful interposition of providence at that period cease to be a man? No he will be unwilling to quit his exaltation, the road to his object thro' the Constitution ["with" stricken out] will be shut; he will be in possession of the sword, a civil war will ensue, and the Comānder of the victorious army on which ever side, will be the despot of America. This consideration renders him particularly anxious that the Executive should be properly constituted. The vice here would not, as in some other parts of the ["plan" stricken out] system be curable—the It is most difficult of all ["to give the proper balance to the" stricken out] rightly to balance the Executive. Make him too weak: The Legislature will usurp his powers: Make him too strong. He will usurp on the Legislature. He preferred a short period, a re-eligibility, but a different of election. A long period would prevent an adoption of the plan: it ought to do so. He sh<sup>d</sup> himself be afraid to trust it. He was not prepared to decide on M<sup>r</sup> Wilson's mode of election just hinted by him. He thought it deserved consideration. It would that chance s<sup>d</sup> decide than intrigue.

["On the question to postpone as moved by M<sup>r</sup> Wilson" <sup>of</sup> "for further consideration of the mode intimated" stricken out] stricken out]

On ["A" written upon "the"] question to postpone the consideration of the Resolution on the subject of the Executive

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. div<sup>d</sup> M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Wilson <sup>then</sup> moved that the Executive be chosen every years by ["Electors to be" stricken out] Electors to be taken by lot from the <sup>Nat<sup>l</sup></sup> Legislature who shall proceed immediately to the choice of the Executive <sup>and not separate until it be made</sup>

M<sup>r</sup> Carrol 2<sup>ds</sup> the motion

M<sup>r</sup> Gerry. this is committing too much to chance. If

the lot should fall on a sett of unworthy men, an unworthy Executive must be saddled on the Country. He thought it had been demonstrated that no possible mode of electing by the Legislature could be a good one.

M<sup>r</sup> King—The lot might fall on a majority from the same State which w<sup>d</sup> ensure the election of a man from that State. We ought to be governed by reason, not by chance. As no body seemed to be satisfied, he wished the matter to be postponed

M<sup>r</sup> Wilson did not move this as the best mode. His opinion remained unshaken that we ought to resort to the people for the election. He seconded the postponement.

M<sup>r</sup> Gov<sup>r</sup> Morris observed that the chances were almost infinite ag<sup>st</sup> a majority of electors from the same State.

On a question whether the last motion was in order, it was determined in the affirmative; ays. 4 noes.

On the question of postponem<sup>t</sup> <sup>it</sup> was agreed to nem. con.

M<sup>r</sup> Carrol took occasion to observe that he considered the clause declaring that direct taxation on the States should be in proportion to representation, previous to the obtaining an actual census, as very objectionable, and that he reserved to himself the right of opposing it, if the Report of the Committee of detail should leave it in the plan.

M<sup>r</sup> Gov<sup>r</sup> Morris hoped the Committee would strike out the whole of the clause proportioning direct taxation to representation. He had only meant it is a \* bridge to assist us over a certain gulph; [“having” stricken out] having passed the <sup>the gulph</sup> bridge may be removed. He thought the principle laid down with so much strictness, liable to strong objections

\*[“N. B.” stricken out] The object was to lessen the eagerness on one side, & the opposition on the other, to the

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\* The N. B. to be transferred hither, without the—N. B.



share of Representation claimed by the S. States on account of the Negroes.

On a ballot for a Committee to report a Constitution conformable to the Resolutions passed by the Convention, the members chosen were

M<sup>r</sup> Rutledge, M<sup>r</sup> Randolph, M<sup>r</sup> Ghorum, M<sup>r</sup> Elsworth, M<sup>r</sup> Wilson—

On motion to discharge the Com<sup>e</sup>. of the whole from the propositions submitted to the Convention by M<sup>r</sup>. C. Pinkney [<sup>Sothorn</sup> "only" stricken out] as a basis of a constitution, and to refer them to the Committee of detail just appointed, it was ag<sup>d</sup>. to nem: con.

A like motion was <sup>then made &</sup> agreed to nem: con. with respect to the propositions of M<sup>r</sup> Patterson

Adjourned.

### Wednesday July 25. In Convention

Clause relating to the Executive again under consideration

M<sup>r</sup> Elsworth moved "that the Executive be appointed by the Legislature," except when [<sup>the magistrate last chosen shall</sup> "he shall" stricken out] have ["served the term of first election, in which case he continued in office the whole term for which he was chosen, & be reeligible, in which case the may be reelected" stricken out] by—Electors appointed by choice shall be <sup>for that purpose.</sup> the Legislatures of the States ["as heretofore proposed" stricken out]." By this means a deserving Magistrate may be reelected without making him dependent on the Legislature.

M<sup>r</sup> Gerry repeated his remark that an election at all by the Nat<sup>l</sup> Legislature was radically and incurably wrong; and <sup>moved</sup> ["renewed his motion" stricken out] that the Executive be appointed by the Governours & Presidents of the States, with advice of their Councils, and when there are no Councils by Electors chosen by the Legislatures. The executives to vote in the following proportions: viz—

M<sup>r</sup> Madison. There are objections ag<sup>t</sup> every mode that has

been, or perhaps can be proposed. [~~"but if not in his opinion ag<sup>st</sup> an election by the", illegible words stricken out~~]. The election must be made either by some existing authority under the Nat<sup>l</sup> or State Constitutions—or by some special authority derived from the people—or by the people themselves.—The two Existing authorities under the Nat<sup>l</sup> Constitution w<sup>d</sup> be the Legislative & Judiciary. The latter he presumed was out of the question. The former was in his Judgment liable to insuperable objections. Besides the general influence of that mode on the independence of the Executives, 1. the election of the Chief Magistrate would agitate & divide the legislature so much <sup>that</sup> the public interest [~~"was" stricken out~~] would materially suffer by it. Public bodies are always apt to be thrown into contentions, but [~~"by an" stricken out~~] into more violent ones by such occasions than by any others. 2. the [~~"chief Magistrate" stricken out~~] candidate [~~"s" stricken out~~] would intrigue with the Legislature, would derive his appointment from the predominant faction, and be apt to render his administration subservient to its views. 3. The Ministers of foreign powers would have and make use of, the opportunity <sup>to</sup> to mix their intrigues & influence with the Election. Limited as the powers of the Executive <sup>are</sup> [~~"w<sup>d</sup> be" stricken out~~], it will be an object of great moment with the great rival powers of Europe who have American possessions, to have at the head of our Government a man attached to their respective politics & interests. No pains, nor perhaps expense, will be spared, to gain from the Legislature an appointm<sup>t</sup> favorable to their wishes. Germany & Poland, <sup>are witnesses</sup> [~~"admonished us" stricken out~~] of this danger. In the former, the election of the

Head of the Empire, till it became in a manner hereditary, interested all Europe, and was much influenced ["to say the least" stricken out] by foreign interference— In the latter, altho' the elective Magistrate has very little real power, his election has at all times produced the most eager interference of foreign princes, and has in fact at length slid entirely into foreign hands. The existing authorities in the States are the Legislative, Executive & Judiciary. The appointment of the Nat<sup>l</sup> Executive by the ["former" stricken out]<sup>first</sup> was objectionable in many points<sup>of view</sup>, some of which had been already mentioned. He would mention one which of itself would decide his opinion. The Legislatures of the States had betrayed a strong propensity to a variety of ["petty acts" stricken out]<sup>pernicious</sup> measures. One object of the Nat<sup>l</sup> Legisl<sup>re</sup> was to controul this propensity. One object of<sup>the</sup> Nat<sup>l</sup> ["Legisl" stricken out] Executive, so far as it would have a negative on the laws, was to controul the Nat<sup>l</sup> Legislature, so far as<sup>it might be infected with</sup> ["might have" stricken out] a similar propensity. Refer the appointm<sup>t</sup> of the Nat<sup>l</sup> Executive to the State Legislatures, and this controuling purpose may be defeated. The Legislatures can<sup>&</sup> will act with some kind of regular plan, and will promote the appointm<sup>t</sup> of a man who will not oppose himself to a favorite object. Should a majority of the Legislatures at the time of election ["wish for" stricken out] have the same object, or different objects of ["the" written upon "a"]<sup>same</sup> kind, [illegible word stricken out] the Nat<sup>l</sup> Executive, would ["become a mere instrum" stricken out] be rendered subservient to them.—An appointment by the State Executives, was liable among other objections to this insuperable one, that being ["a" stricken out] standing bodies, they could & would be

courted, and intrigued with ["with" stricken out] by the Candidates, by their partizans, and by the Ministers of foreign powers. The State Judiciarys had not ["been suggested" stricken out] & he presumed w<sup>d</sup> <sup>be proposed</sup> not as a proper source of appointment. The Option before us ["therefore" stricken out] <sup>then</sup> lay between an appointment by Electors chosen by the people—and ["by" <sup>an</sup> stricken out] immediate appointment by the people. He thought the former mode free from many of the objections which had been urged ag<sup>st</sup> it, and greatly preferable to an appointment by the Nat<sup>l</sup> Legislature. As the electors would <sup>be chosen for the occasion, would</sup> meet at once, & <sup>immediately</sup> proceed to an appointment, there would be very little opportunity for cabal, or corruption,. As a further precaution, it might <sup>be</sup> required that they should meet at some place, distinct from the seat of Gov<sup>t</sup> and even that no["t" stricken out] person within a certain distance of the place at the time sh<sup>d</sup> be eligible. This mode however had been rejected ["by" stricken out] so recently & by so great a majority that it probably would not be proposed anew. The remaining ["alternative" stricken out] mode was an election by the <sup>or rather by the ["free holders" stricken out] qualified part of them.</sup> people at large. With all its imperfections he liked this best. He would not repeat either the argum<sup>ts</sup> <sup>general</sup> for or the objections ag<sup>st</sup> this mode. ["it" stricken out] He would only <sup>take notice of</sup> [illegible word stricken out] two difficulties which he admitted to have weight. The first arose from the disposition in the people to prefer a Citizen of their own State, and the disadvantage this w<sup>d</sup> <sup>throw on</sup> ["give to" stricken out] the smaller States. Great as this objection might be he did not think it equal to such as lay ag<sup>st</sup> every other mode which had been proposed. He thought too that some expedient might be hit upon that would obviate<sup>it</sup> . The second

difficulty arose from the disproportion of [<sup>qualified voters</sup> "freeholders" stricken out] in the N. & S. States, and the disadvantages ["this" stricken out] which this mode would throw on the latter. The answer to this objection was ["first" stricken out] 1. that this disproportion would be continually decreasing under the influence of the Republican laws introduced in the S. States, and the more rapid increase of their population. 2. That [<sup>local</sup> "this" stricken out] local considerations must give way to the general interest. As an individual from the S. States he was willing to make the sacrifice.

M<sup>r</sup> Elsworth. The objection drawn from the different sizes of the States, is unanswerable. The Citizens of the largest States would invariably prefer the Candidate within the State; and the largest States w<sup>d</sup> invariably have the man.

Question on M<sup>r</sup> Elsworth's motion as above.

N. H. ay. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no—M<sup>d</sup> ay. V<sup>a</sup> no. N—C. no. S. C. no. Geo. no.

M<sup>r</sup> Pinkney moved that the election by the Legislature be qualified with a proviso that no person be eligible for more than 6 years in any twelve years. He thought this would have all the advantage & at the same time avoid in some degree the inconveniency, of an absolute ineligibility a 2<sup>d</sup> time.

Col. Mason opposed the idea. It had the sanction of experience in the instance of Cong<sup>s</sup> and some of the Executives of the States. It rendered the Executive as effectually independent, as an ineligibility after his first election, and opened the way at the same time for the advantage of his future services. He preferred on the whole the election by the Nat<sup>l</sup> Legislature: Tho' Candor obliged him to admit, that

there was great danger of foreign influence, as had been suggested. This was the most serious objection with him that had been urged.

Mr Butler. The two great evils to be avoided are cabal at home, & influence from abroad. It will be difficult to avoid either if the Election be made by the Nat<sup>l</sup> Legislature. On the other hand, the Gov<sup>t</sup> should not be made ["So" written upon "too" and stricken out]<sup>so</sup> complex & unwieldy as to disgust the distant States. This would be the case, if the election sh<sup>d</sup> be referred to the people. He liked best an election by Electors chosen by the Legislatures of the States. He was ag<sup>st</sup> a re-eligibility at all events. He was also ag<sup>st</sup> a ratio of votes in the States. An equality should prevail in this case. The reasons for departing from it do not hold in the case of the Executive <sup>in that</sup> as of the Legislature.

Mr Gerry approved of Mr Pinkney's motion as lessening the evil.

Mr Gov<sup>r</sup> Morris was ag<sup>st</sup> a rotation in every case. It formed a political School, in w<sup>ch</sup> we were always governed by the scholars, and not by the Masters—The evils to be guarded ag<sup>st</sup> in this case are. 1. the undue influence of the Legislature. 2. instability of Councils. 3. misconduct in office. To guard ag<sup>st</sup> the first, we run into the second evil. we adopt a rotation which produces instability of Councils. To avoid Sylla we fall into Charibdis. ["The self sufficiency of these" stricken out]<sup>is</sup> A change of men ever followed by a change of measures We see this fully exemplified among ourselves, particularly in the State of Pen<sup>a</sup>. The selfsufficiency of a victorious <sup>party</sup> scorns to tread in the paths of their predecessors. Rehoboam will not imitate Solomon. 2. the Rotation in office will not prevent intrigue and dependence



on the Legislature. The man in office will look forward to the period at which he will become re-eligible. The distance of the period, the improbability of such a protraction of his life will ["not" stricken out] be no obstacle. Such is the nature of man, formed by his benevolent author no doubt for wise ends, that altho' he knows ["himself" stricken out] his existence to be limited to a span, he takes his measures as if he were to live forever. But taking another supposition, the inefficiency of the expedient will be manifest. If the magistrate does not look forward to his re-election to the Executive, he will be pretty sure to keep in view the opportunity of his going into the Legislature itself. He will have little objection then to an extension of power on a theatre where he expects to act a distinguished part; and will be very unwilling to take any step that may endanger his popularity with the Legislature, ["on" written upon "from"] his influence over which the figure he is to make will depend. 3. To avoid the third evil, <sup>["[" Illegible words "]" stricken out]</sup> impeachments will be essential, and hence an additional reason ag<sup>st</sup> an election by the Legislature. ["As" stricken out] He considered an election by the people as the best, by the Legislature as the worst, mode. Putting both these aside, he could not favor the idea of M<sup>r</sup> Wilson, of introducing a mixture of lot. It will diminish, if not destroy both cabal & dependence.

M<sup>r</sup> Williamson was sensible that strong objections lay ag<sup>st</sup> an election of the Executive by the Legislature, and that it opened the door for foreign influence. The principal objection ag<sup>st</sup> an election by the people seemed to be, the disadvantage under which it would place the smaller States. He suggested as a cure for this difficulty, that each man should vote for 3 candidates. One of these he observed would be proba-

bly of his own State, the other 2. of some other States; and as probably of a small as a large one.

M<sup>r</sup> Gov<sup>r</sup> Morris liked the idea, ["each" stricken out] suggesting as an amendment that each man should vote for two persons one of whom at least should not be of his own State.

M<sup>r</sup> Madison also thought something valuable might be made of the suggestion with the proposed amendment of it. The second best man ["in the partial Judgment of each Citizen towards his immediate fellow Citizen" stricken out] in this case would probably be the first, in fact. [illegible words, "the opinion of a majority of the States" stricken out] The only objection which occurred was that each Citizen after hav<sup>g</sup> given his vote for his favorite fellow Citizen w<sup>d</sup> throw away his second on some obscure Citizen of another State, in order to ensure the <sup>object</sup> ["election" stricken out] of his first choice. But it could hardly be supposed that the Citizens of many States would be so sanguine of having their favorite elected, as not to give their second vote with sincerity to the next object of their choice. ["As a further safeguard to the smaller States, he s<sup>d</sup> <sup>It might moreover be provided in favor of the smaller States</sup> It might be provided" stricken out] that the Executive should not be eligible more than times in        years from the same State.

M<sup>r</sup> Gerry—A popular election in this case is radically vicious. The ignorance of the people would put it in [<sup>the</sup> "their" stricken out] power of some one set of men dispersed through ["t" stricken out] the Union & acting in Concert to delude them into any appointment. He observed that such a Society of men existed in the Order of the Cincinnati. They are respectable, United, and influential. They will in fact elect the chief Magistrate in every instance, if the election be ["p" stricken out] referred to the people.—His respect for

the characters composing this Society could not blind him to the danger & impropriety of throwing such a power into their hands.

M<sup>r</sup> Dickenson. As far as he could judge from the discussions which had taken place during his attendance, insuperable objections lay ag<sup>st</sup> an election of the Executive by the Nat<sup>l</sup> Legislature; as also ["ag<sup>st</sup>" stricken out] by the Legislatures or Executives of the States—He had long leaned towards an election by the people which he regarded as the best and purest source. Objections he was aware lay ag<sup>st</sup> this mode, but not so great he thought as ag<sup>st</sup> the other modes. The greatest difficulty ["was as" stricken out] in the opinion of the House seemed to arise from the partiality of the ["large" stricken out] States to their respective Citizens. But, might not this very partiality be turned to a useful purpose. Let ["that" stricken out] the people of each State chuse its best Citizen. The people will ["will know" stricken out] know the most eminent characters of their own States, and the people of different States will feel an emulation in selecting those of which they will have the greatest reason to be proud—Out of the thirteen names thus selected, an Executive Magistrate may be chosen either by the Nat<sup>l</sup> Legislature, or by Electors appointed by it.

On a Question which was moved for postponing M<sup>r</sup> Pinkney's motion, in order to make way for some such proposition as had been hinted by M<sup>r</sup> Williamson & others. it passed in the negative.

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

On M<sup>r</sup> Pinkney's motion that no person shall serve in the Executive more than 6 years in 12. years, it <sup>passed in the negative.</sup>

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> no.  
V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay

# >

M<sup>r</sup> Gerry & M<sup>r</sup> Butler moved to refer the <sup>resolution</sup> [“clause”  
(except the clause making it consist of a single person)  
stricken out] relating to the Executive to the Committee of  
detail

M<sup>r</sup> Wilson hoped that so important a branch of the System  
w<sup>d</sup> not be committed untill a general principle sh<sup>d</sup> be fixed  
by a vote of the House.

M<sup>r</sup> Langdon was for the Committment.—

Adj<sup>d</sup>.

[The passage from, “\* On a motion that the members of the Committee be furnished with copies of the proceed-  
ings it was so determined; S. Carolina alone being in the negative —  
C. no—Geo. no—”, is contained on a slip of paper attached at the bottom of the original page.]

It was then moved that the members of the House [“take” stricken out] might take copies of  
the Resolutions which had been agreed to; which passed in the negative.

N. H. no—Mas. no. Con<sup>t</sup> ay. N. J. ay. Pa<sup>a</sup> no—Del. ay. Mary<sup>d</sup> no. V<sup>a</sup> ay. N—C. ay. S. C. no—  
Geo. no—

Thursday July. 26. in Convention

Col. Mason. In every Stage of the Question relative to  
the Executive, the difficulty of the subject and the diver-  
sity of the opinions concerning it have appeared. Nor have  
any of the modes of constituting that department been satis-  
factory. 1. It has <sup>been</sup> proposed that the election should be  
made by the people at large; that is that an act which  
[“<sup>ought to</sup> should” stricken out] be performed by those who know  
most of Eminent characters, & qualifications, should be  
performed by those who know least. 2 that the election  
should be made by the Legislatures of the States. 3. by  
the Executives of the States. Ag<sup>st</sup> these modes also strong  
objections have been urged. 4. It has been proposed that

the election should be made by Electors chosen by the people for that purpose. This was at first agreed <sup>to</sup> : But on further consideration has been rejected. 5. Since which, the mode of M<sup>r</sup> Williamson, requiring each freeholder to ["giv" stricken out] vote for several candidates has been proposed. This seemed like many other propositions, to carry a plausible face, ["but" stricken out] but on closer inspection ["was" stricken out] <sup>is</sup> liable to fatal objections. A popular election as M<sup>r</sup> Gerry has observed, ["will" stricken out] <sup>in any form,</sup> would throw the appointment into the hands of the Cincinnati, a Society for the members of which he had a great respect; but which he never wished to have a preponderating influence in the Gov<sup>t</sup>. 6. Another expedient was proposed by M<sup>r</sup> Dickenson, which is liable to so palpable & material ["to" stricken out] an inconvenience that he had little <sup>doubt</sup> of its being by this time rejected by himself. It would exclude every man who happened not to be popular within his own State; tho' the causes of his ["un" stricken out] local unpopularity might be of such a nature as to recommend him to the States at large. 7. Among other expedients, a lottery has been introduced. But as the tickets do not appear to be in much demand, it will not probably be carried on, and nothing therefore need be said on that subject. After reviewing all these various modes, he was led to conclude that an election by the Nat<sup>l</sup> Legislature as originally proposed, was the best. If it was liable to objections, it was liable to fewer than any other. He conceived at the same time that a second election ought to be absolutely prohibited. Having for his primary object, for the pole star of his political conduct, the preservation of the rights of the people, he held it as an essential point, as the very palladium of

Civil liberty, that the great officers of State, and particularly the Executive should at fixed periods return to that mass from which they were at first taken, in order that they may feel & respect those rights & interests, Which are again to be personally valuable to them. He concluded with moving that the constitution of the Executive as reported by the Com<sup>e</sup> of the whole be re-instated, viz. "that the Executive be appointed for seven years, & be ineligible a 2<sup>d</sup> time,"

M<sup>r</sup> Davie seconded the motion

Doc<sup>r</sup> Franklin. It seems to have been imagined by some that the returning to the mass of the people was degrading the magistrate. This he thought was contrary to ["the" stricken out] republican principles. In free Governments the rulers are the servants, and the people their superiors & sovereigns. For the former therefore to return among the latter was not to degrade but to promote them- and it would be imposing an unreasonable burden on them, to keep them always in a State of servitude, and not allow them to become again one of the Masters.

Question on Col. Masons motion as above; which passed in the affirmative

N. H. ay. Mas<sup>ts</sup>. not on floor. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>ra</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris was ag<sup>st</sup> the whole paragraph. In answer to Col. Mason's position that a periodical return of the great officers of the State into the mass of the people, was the palladium of Civil liberty he w<sup>d</sup> observe that on the same principle the Judiciary ought to be periodically degraded; certain it was that the Legislature ought on every principle- yet no one had proposed. or conceived that the members of it should not be re-eligible. In answer to Doc<sup>r</sup> Franklin, that a return into the mass of the people would be a promo-



tion. instead of a degradation, he had no doubt that our Executive like most others would have too much patriotism ["not" stricken out] to shrink from the burden of his office, and too much modesty not to be willing to decline the promotion.

["Question on the whole clause including Col. Mason's amendment" stricken out]

On the question on the whole resolution as amended in the words following—"that a National Executive be instituted—to consist of a single person—to be chosen by the Natl. legislature—for the term of seven years—to be ineligible a 2<sup>d</sup> time—with power to carry into execution the natl. laws—to appoint to offices in cases not otherwise provided for—to be removeable on impeachment & conviction of mal-practice or neglect of duty—to receive a fixt compensation for the devotion of his time to the public service, to be paid out of the Natl. Treasury"—it passed in the affirmative

[The words, "Question on the whole clause including Col. Mason's amendment", were first stricken out and over them was pasted a slip of paper containing the words from, "On the question on the whole", to, "it passed in the affirmative", here printed in small type.]

N. H. ay. Mas. not on floor. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del. no.  
M<sup>d</sup> no. V<sup>a</sup> div<sup>d</sup> M<sup>r</sup> B. & Col. M. ay. Gen<sup>l</sup> W. & M<sup>r</sup> M- no.  
Blair Mason Washington Madison  
M<sup>r</sup> Randolph happened to be out of the House. N- C- ay.  
S. C. ay. Geo. ay.

M<sup>r</sup> Mason moved "that the Committee of detail be instructed to receive a clause requiring certain qualifications of landed of the U. States property & citizenship in members of the Legislature, and ["Natl" stricken out, "Executive & Judiciary" erased, "of the U. S" stricken out] disqualifying persons having unsettled Acc<sup>ts</sup> with or being from being members of the Natl. Legislature indebted to the U. S.—He observed that persons of the latter descriptions had frequently got into the State Legislatures, in order to promote laws that might shelter their delinquencies; and that this evil had crept into Cong<sup>s</sup> if Report was to be regarded.

M<sup>r</sup> Pinkney seconded the motion

M<sup>r</sup> Gov<sup>r</sup> Morris. If qualifications are proper, he w<sup>d</sup> prefer them in the electors rather than the elected. As to debtors of the U. S. they are but few. As to persons having unsettled accounts he believed them to be pretty many. He

thought however that such a discrimination would be both odious & useless. and in many instances unjust & cruel. The["y" stricken out] delay of settlement had been more the fault of the public than of the individuals. What will be done with ["those" stricken out] those patriotic Citizens who have lent money, or services or property to their Country, without having been yet able to obtain a liquidation of their claims? Are they to be excluded?

M<sup>r</sup> Ghorum was for leaving to the Legislature, the providing ag<sup>st</sup> such abuses as <sup>had</sup> been mentioned.

Col. Mason mentioned the parliamentary qualifications adopted in the Reign of Queen Anne, which he said had met with universal approbation

M<sup>r</sup> Madison had witnessed ["the evil mentioned by Col Mason, of the zeal of interested" stricken out] <sup>the zeal of</sup> men having acc<sup>ts</sup> with the public, to get into the Legislatures for sinister purposes. He thought however that if any precaution were to be taken for excluding them, the <sup>one</sup> ["pro" stricken out] proposed by Col. Mason ought to be new modelled. ["He suggested that" stricken out] It might <sup>["to avoid objections by" erased]</sup> be well to limit["ing" erased] the exclusion to persons who had rec<sup>d</sup> money from the public, and had not accounted for it.

M<sup>r</sup> Gov<sup>r</sup> Morris— It was a precept of great antiquity ["as" written upon "not"] well as of high authority that we should not be righteous overmuch. He thought we ought

<sup>The proposed regulation would enable the Gov<sup>nt</sup>. to exclude particular persons from office as long as they pleased</sup> to be equally on our guard ag<sup>st</sup> being wise over much. He

mentioned the case of the Comander in chief's presenting his account for secret services, which he said was so moderate that every one was astonished at it; and so simple that no doubt could arise on it. Yet had the Auditor been disposed <sup>the settlement</sup> to delay, how easily might he have affected it, and how cruel

[“its” stricken out] w<sup>d</sup> it <sup>be in such a case to</sup> [“have been in such a case to have kept a” <sup>keep a</sup> stricken out] distinguished & meritorious <sup>["a" stricken out]</sup> Citizen under a temporary disability & disfranchisement. He mentioned this case merely to illustrate the objectionable nature of the proposition. He was opposed to such minutious regulations in a Constitution. [“It accts He observed also that” stricken out] The parliamentary qualifications quoted by Col. Mason, had been disregarded in practice; and was but a [“sche” stricken out] scheme of the landed ag<sup>st</sup> the monied interest.

[“On the Motion of” stricken out] M<sup>r</sup> Pinkney & Gen<sup>l</sup> Pinkney moved to insert by way of amendm<sup>t</sup> the words Judiciary & Executive so as to extend the qualifications to those departments which was agreed to nem con

M<sup>r</sup> Gerry thought the inconveniency of excluding a few <sup>who might be public debtors or have unsettled acct<sup>s</sup></sup> worthy individuals ought not to be put in the Scale ag<sup>st</sup> the public advantages of the regulation, and that the motion did not go far enough.

M<sup>r</sup> King observed that there might be great danger in requiring landed property as a qualification since it [“would” written upon “might”] exclude the monied interest, whose aids may be essential in particular emergencies to the public safety.

M<sup>r</sup> Dickenson. was ag<sup>st</sup> any recital of qualifications in the Constitution. It was impossible to make a compleat one, and a partial one would by implication tie up the hands of the Legislature from supplying the omissions, The best defence lay in the freeholders who were to elect the Legislatures Whilst this [“re” stricken out] Source should remain pure, the public interest would be safe. If it ever [“it” stricken out] should be corrupt, no little expedients would repel the danger. He doubted the policy of interweaving into a Repub-

lican constitution a veneration for wealth. He had always understood that a veneration for poverty & virtue, were the objects of republican encouragement. It seemed improper that any man of merit should be subjected to disabilities in a ["form of Gov<sup>t</sup>" stricken out] Republic where merit was understood to form the great title to public trust, honor & rewards.

M<sup>r</sup> Gerry if property be one object of Government, provisions for securing it can not be improper.

M<sup>r</sup> <sup>Madison</sup> moved to strike out the word landed, before the word, "qualifications". If the propositions s<sup>d</sup> be agreed to he wished the Committee to be at liberty to report the best criterion they could devise. Landed possessions were no certain evidence of real wealth. Many enjoyed them to a great extent who were more in debt than they were worth. The unjust laws of the States <sup>had</sup> proceeded more from this class of men, than any others. It had often happened that men who had acquired landed property on credit, got into the Legislatures with the view of promoting <sup>an</sup> unjust protection ag<sup>st</sup> their Creditors. In the next place, if a small quantity of land should be made the standard. it would be no security—if a large one, it would exclude the proper representatives of those classes of Citizens who were not landholders. It was politic as well as just that ["every also" stricken out] the interests & rights of every class should be duly ["under" stricken out] represented & understood in the public Councils. <sup>It was a ["very" stricken out] provision every where established</sup> ["If it be proper" stricken out] that the Country should be divided into districts & representatives taken from each, in order that the Legislative Assembly might equally understand & sympathise, with the rights of ["every" stricken out] the people in every part of the Community.

It was not less proper that every class of Citizens should have an opportunity of making their rights be felt & understood in the public Councils. The three principle classes into which our ["country was" stricken out] <sup>citizens were</sup> divisible, were the landed the commercial, & the manufacturing. The 2<sup>d</sup> & 3<sup>d</sup> <sup>class, particularly "stricken out"]</sup> ["class must form the least" stricken out] bear as yet a small proportion to the first. The proportion however will daily increase. We see in the populous Countries in Europe now, what we shall be hereafter. These classes understand much less of each others interests & affairs, tha["n" twritten upon "t"] men of the same class inhabiting different districts. It is particularly requisite therefore that the interests of one or two of them should not be left entirely to the care, o["r" written upon "f"] the impartiality of the third. This must be the case if landed qualifications should be required; few of the mercantile, and scarcely any ["at all" stricken out] of the manufacturing class, chusing whilst they continue in business to ["vest their their" stricken out] turn any part of their Stock into landed property. For these reasons he wished if it were possible that some other criterion than <sup>the</sup> mere possession of land should be devised. He concurred with M<sup>r</sup> Gov<sup>r</sup> Morris in thinking that qualifications in the Electors would be much more effectual than in the elected. The former would discriminate between real & ostensible property in the latter; But <sup>he</sup> was aware of <sup>the difficulty of</sup> forming any uniform standard that would suit the different circumstances & opinions prevailing in the different States.

M<sup>r</sup> Gov<sup>r</sup> Morris 2<sup>d</sup> the motion. ["to" effaced]

On the Question for striking out "landed"

N. H. ay. Mas. ay. C<sup>t</sup> ay N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ["no" written upon "ay"] V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

On Question on 1<sup>st</sup> part of Col. Masons ["of" stricken out] proposition ["s" stricken out] as to qualification of property & citizenship<sup>as so amended</sup>"

N. H. ay. Mas<sup>ts</sup> ay. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

"The 2<sup>d</sup> part, for disqualifying debtors, and persons having unsettled accounts", being under consideration

M<sup>r</sup> Carrol moved to strike "having unsettled accounts"

M<sup>r</sup> Ghorm seconded the motion; observing that it would put the commercial & manufacturing part of the people on a worse footing<sup>than others</sup> as they would be most likely to have dealings with the public.

M<sup>r</sup> L— Martin. if these words should be struck out, and the remaining words concerning debtors retained, it will be the interest of the latter class to keep their accounts unsettled as long as possible.

M<sup>r</sup> Wilson was for striking them out. They put too much power in the hands of the Auditors, who might combine with rivals in delaying settlements in order to prolong the disqualifications of particular men. We should consider that we are providing a Constitution for future generations, and not merely for the peculiar circumstances of the moment. The time has been, and will again be ["n" effaced] whe["n" written upon "th"] ["the" written upon "it"] public safety may depend on the<sup>voluntary</sup> aids of individuals which will necessarily open acc<sup>ts</sup> with the public, and when such acc<sup>ts</sup> will be a characteristic of patriotism. Besides a partial enumeration ["will" stricken out] of cases will disable the Legislature from disqualifying odious & dangerous characters.

M<sup>r</sup> Langdon was for striking out the whole clause for the



reasons given by M<sup>r</sup> Wilson. So many Exclusions he thought too would render the system unacceptable to the people.

M<sup>r</sup> Gerry. If the argum<sup>ts</sup> used to day were to prevail, we might have a Legislature composed of public debtors, pensioners, placemen & contractors. He thought the proposed qualifications would be pleasing to the people. They will be considered as a security ag<sup>st</sup> unnecessary or undue burdens being imposed on them

He moved to add "pensioners" to the disqualified characters which was negatived.

N. H. no Mas. ay. Con. no. N. J. no. P<sup>a</sup>. no. Mary<sup>d</sup>. ay. V<sup>a</sup>. no. [<sup>Del no</sup> "S C no. Geo. ay." stricken out] N. C. divided. S. C. no. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> <sup>Morris</sup> The last clause, relating to public debtors will exclude every importing merchant. Revenue will be drawn it is foreseen as much as possible, from trade. Duties of course will be bonded, and the Merch<sup>ts</sup> will remain debtors to the public. He repeated that it had not been so much the fault of individuals as of the public that transactions between them had not been more generally liquidated & adjusted. At all events to draw from our short & scanty experience rules that are to operate through succeeding ages, does not savour much of <sup>real</sup> wisdom.

On question for striking out "persons having unsettled accounts with the U. States."

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no.

M<sup>r</sup> Elsworth was for disagreeing to the remainder of the clause ["for" stricken out] disqualifying public debtors; and leaving <sup>for</sup> to the wisdom of the Legislature and the virtue of the Citizens, the task of providing ag<sup>t</sup> such evils. Is the smallest as well largest debtor to be excluded? Then every arrear of taxes will disqualify. Besides how is it to be known to the people when they elect who are or are not

public debtors. The exclusion of pensioners & placemen in Eng<sup>d</sup> is founded on a consideration not existing here. As persons of that sort are dependent on the Crown, they tend to increase its influence.

M<sup>r</sup> Pinkney s<sup>d</sup> he was at first a friend to the proposition, for the sake of the clause relating to ["landed" stricken out] qualifications of property; but he disliked the exclusion of public debtors; it went too far. It w<sup>d</sup> exclude persons who had purchased confiscated property or should purchase Western territory of the public, and might be some obstacle to the sale of the latter.

On the question for agreeing to the clause disqualifying public debtors

N. H. no. Mas- no. C<sup>t</sup> no. N- J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. no. Geo. ay.

Col. Mason. observed that it would be proper, as he thought, that some provision should be made in the Constitution ag<sup>st</sup> choosing for the seat of the Gen<sup>l</sup> Gov<sup>t</sup> the City or place at <sup>which</sup> the seat of any State Gov<sup>t</sup> might be fixt. There were 2 objections ag<sup>st</sup> having them at the same place, which without mentioning others, required some precaution on the subject. The 1<sup>st</sup> was that it tended to produce disputes concerning jurisdiction— The 2<sup>d</sup> & principal one was that ["it tended" <sup>the intermixing of the two Legislatures tended</sup> stricken out] <sup>ye</sup> to give a provincial tincture to Nat<sup>l</sup> deliberations. He moved that the Com<sup>e</sup> be instructed to receive a clause to prevent the <sup>seat of the</sup> Nat<sup>l</sup> Gov<sup>t</sup> being ["fixed at" <sup>in the same</sup> stricken out] <sup>City or town with the Gov<sup>t</sup> of</sup> the seat of any State <sup>longer</sup> ["Gov<sup>t</sup> for a longer time" stricken out] <sup>than</sup> until the necessary public buildings ["should be" stricken out] could be erected.

M<sup>r</sup>. Alex. Martin 2<sup>ded</sup> the motion.

M<sup>r</sup> Gov<sup>r</sup> Morris did not dislike the idea, but was apprehen-

sive that such a clause might ["create" stricken out] make enemies of Phil<sup>a</sup> & N. York which had expectations of becoming the Seat of the Gen<sup>l</sup> Gov<sup>t</sup>

M<sup>r</sup> Langdon approved the idea also: but suggested the case of a State moving its seat of Gov<sup>t</sup> to the nat<sup>l</sup> seat after the erection of the public buildings

M<sup>r</sup> Ghorm. the precaution may be evaded by the Nat<sup>l</sup> Legis<sup>re</sup> by ["pro" stricken out] delaying to erect the public buildings

M<sup>r</sup> Gerry conceived it to be the gene<sup>l</sup> sense of America, that neither the Seat of a State Gov<sup>t</sup> nor any large commercial City should be the seat of the Gen<sup>l</sup> Gov<sup>t</sup>

M<sup>r</sup> Williamson liked the idea, but knowing how much the passions of men were agitated by this matter, was apprehensive of ["exciting" <sup>turning</sup> stricken out] them ag<sup>st</sup> the system. He apprehended also that an evasion might be practiced in the way hinted by M<sup>r</sup> Ghorm.

M<sup>r</sup> Pinkney thought that the seat of a State Gov<sup>t</sup> ought to be avoided; but that a large town or its vicinity would be proper for the Seat of the Gen<sup>l</sup> Gov<sup>t</sup>

Col. Mason did not mean to press the motion at this time, nor to excite any hostile passions ag<sup>st</sup> the system. He was content to withdraw the motion for the present.

M<sup>r</sup> Butler was for fixing <sup>by the Constitution</sup> the place, & a central one, for the seat of the Nat<sup>l</sup> Gov<sup>t</sup>

The ["Resolution constituting the Executive as amended, <sup>proceedings since monday last were referred unanimously to the</sup> was referred to" stricken out] Com<sup>e</sup> of detail, <sup>then unanimously</sup> and the Convention <sup>the</sup>

Adjourned till Monday. Aug<sup>t</sup> 6. that Com<sup>e</sup> of detail <sup>might</sup> ["may" stricken out] have time to prepare & report the Constitution:

The whole proceedings as referred are as follow .. <sup>from the Journal p. 207</sup> [here copy them]

With the above resolutions were referred the propositions offered by M<sup>r</sup>. C. Pinkney on the ["15<sup>th</sup> of June" stricken out] 29<sup>th</sup> of May. & by M<sup>r</sup> Patterson on the 15<sup>th</sup> of June.

Monday August 6<sup>th</sup> In Convention

Mr. John Francis Mercer from Maryland took his seat.

[“The House Adj<sup>d</sup> after receiving from” stricken out] M<sup>r</sup>  
<sup>delivered in</sup> Rutledge the Report of the Committee of detail as follows;  
 a printed copy being at the same time furnished <sup>to</sup> each member.

“We the people of the States of New Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia North-Carolina, South-Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the Government of Ourselves and our Posterity.

#### Article I

The stile of the Government shall be. “The United States of America”

#### II

The Government shall consist of supreme legislative, executive, and judicial powers.

#### III

The legislative power shall be vested in a Congress, to consist of two separate and distinct bodies of men, a House of Representatives and a Senate; each of which shall in all cases have a negative on the other. The Legislature shall meet on the first Monday in December every year.

#### IV

Sect. 1. The members of the House of Representatives shall be chosen every second year, by the people of the several States comprehended within this Union. The qualifications of the electors shall be the same, from time to time, as those of the electors in the several States, of the most numerous branch of their own legislatures.

Sect. 2. Every member of the House of Representatives

shall be of the age of twenty five years at least; shall have been a citizen of the United States for at least three years before his election; and shall be, at the time of his election, a resident of the State in which he shall be chosen.

Sect. 3. The House of Representatives shall, at its first formation, and until the number of citizens and inhabitants shall be taken in the manner herein after described, consist of sixty five Members, of whom three shall be chosen in New Hampshire, eight in Massachusetts, one in Rhode-Island and Providence Plantations, five in Connecticut, six in New-York, four in New-Jersey, eight in Pennsylvania, one in Delaware, six in Maryland, ten in Virginia, five in North-Carolina, five in South-Carolina, and three in Georgia.

Sect. 4. As the proportions of numbers in different States will alter from time to time; as some of the States may hereafter be divided; as others may be enlarged by addition of territory; as two or more States may be united; as new States will be erected within the limits of the United States, the Legislature shall, in each of these cases, regulate the number of representatives by the number of inhabitants, according to the provisions herein after made, at the rate of one for every forty thousand.

Sect. 5. All bills for raising or appropriating money, and for fixing the salaries of the officers of the Government, shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public Treasury, but in pursuance of appropriations that shall originate in the House of Representatives.

Sect. 6. The House of Representatives shall have the sole power of impeachment. It shall choose its Speaker and other officers.

Sect. 7. Vacancies in the House of Representatives shall be supplied by writs of election from the executive authority of the State, in the representation from which it shall happen.

## V

Sect. 1. The Senate of the United States shall be chosen by the Legislatures of the several States. Each Legislature shall chuse two members. Vacancies may be supplied by the Executive until ["until" stricken out] the next meeting of the Legislature. Each member shall have one vote.

Sect. 2. The Senators shall be chosen for six years; but immediately after the first election they shall be divided, by lot, into three classes, as nearly as may be, numbered one, two and three. The seats of the members of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, of the third class at the expiration of the sixth year, so that a third part of the members may be chosen every second year.

Sect. 3. Every member of the Senate shall be of the age of thirty years at least; shall have been a citizen in the United States for at least four years before his election; and shall be, at the time of his election, a resident of the State for which he shall be chosen.

Sect. 4. The Senate shall chuse its own President and other officers.

## VI

Sect. 1. The times and places and manner of holding the elections of the members of each House shall be prescribed by the Legislature of each State; but their provisions concerning them may, at any time, be altered by the Legislature of the United States.

Sect. 2. The Legislature of the United States shall have



authority to establish such uniform qualifications of the members of each House, with regard to property, as to the said Legislature shall seem expedient.

Sect. 3. In each House a majority of the members shall constitute a quorum to do business; but a smaller number may adjourn from day to day.

Sect 4. Each House shall be the judge of the elections, returns and qualifications of its own members.

Sect 5. Freedom of speech and debate in the Legislature shall not be impeached or questioned in any Court or place out of the Legislature; and the members of each House shall, in all cases, except treason felony and breach of the peace, be privileged from arrest during their attendance at Congress, and in going to and returning from it.

Sect 6. Each House may determine the rules of its proceedings; may punish its members for disorderly behaviour; and may expel a member.

Sect. 7. The House of Representatives, and the Senate, when it shall be acting in a legislative capacity, shall keep a Journal of their proceedings, and shall, from time to time, publish them: and the yeas and nays of the members of each House, on any question, shall at the desire of one-fifth part of the members present, be entered on the journal.

Sect. 8. Neither House, without the consent of the other, shall adjourn for more than three days, nor to any other place than that at which the two Houses are sitting. But this regulation shall not extend to the Senate, when it shall exercise the powers mentioned in the            article.

Sect. 9. The members of each House shall be ineligible to, and incapable of holding any office under the authority of the United States, during the time for which they shall

respectively be elected: and the members of the Senate shall be ineligible to, and incapable of holding any such office for one year afterwards.

Sect. 10. The members of each House shall receive a compensation for their services, to be ascertained and paid by the State, in which they shall be chosen,

Sect. 11. The enacting stile of the laws of the United States shall be. "Be it enacted by the Senate and Representatives in Congress assembled".

Sect. 12. Each House shall possess the right of originating bills, except in the cases beforementioned.

Sect. 13. Every bill, which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States for his revision: if, upon such revision, he approve of it, he shall signify his approbation by signing it: But if, upon such revision, it shall appear to him improper for being passed into a law, he shall return it, together with his objections against it, to that House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider the bill. But if after such reconsideration, two thirds of that House shall, notwithstanding the objections of the President, agree to pass it, it shall together with his objections, be sent to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of the other House also, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within seven days after it shall have been presented to

him, it shall be a law, unless the legislature by their adjournment, prevent its return; in which case it shall not be a law.

## VII

Sect. 1. The Legislature of the United States shall have the power to lay and collect taxes, duties, imposts and excises;

To regulate commerce with foreign nations, and among the several States;

To establish an uniform rule of naturalization throughout the United States;

To coin money;

To regulate the value of foreign coin;

To fix the standard of weights and measures;

To establish Post-offices;

To borrow money, and emit bills on the credit of the United States;

To appoint a Treasurer by ballot;

To constitute tribunals inferior to the Supreme Court;

To make rules concerning captures on land and water;

To declare the law and punishment of piracies and felonies committed on the high seas, and the punishment of counterfeiting the coin of the United States, and of offences against the law of nations;

To subdue a rebellion in any State, on the application of its legislature;

To make war;

To raise armies;

To build and equip fleets;

To call forth the aid of the militia, in order to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions;

And to make all laws that shall be necessary and proper

for carrying into execution the foregoing powers, and all other powers vested, by this Constitution, in the government of the United States, or in any department or officer thereof;

Sect. 2. Treason against the United States shall consist only in levying war against the United States, or any of them; and in adhering to the enemies of the United States, or any of them. The Legislature of the United States shall have power to declare the punishment of treason. No person shall be convicted of treason, unless on the testimony of two witnesses. No attainder of treason shall work corruption of bloods nor forfeiture, except during the life of the person attainted.

Sect. 3. The proportions of direct taxation shall be regulated by the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, (except Indians not paying taxes) which number shall, within six years after the first meeting of the Legislature, and within the term of every ten years afterwards, be taken in such manner as the said Legislature shall direct.

Sect. 4. No tax or duty shall be laid by the Legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited.

Sect- 5. No capitation tax shall be laid, unless in proportion to the Census hereinbefore directed to be taken.

Sect- 6. No navigation act shall be passed without the assent of two thirds of the members present in each House.

Sect. 7. The United States shall not grant any title of Nobility.

## VIII

The Acts of the Legislature of the United States made in pursuance of this Constitution, and all treaties made under the authority of the United States shall be the supreme law of the several States, and of their citizens and inhabitants; and the judges in the several States shall be bound thereby in their decisions; anything in the Constitutions or laws of the several States to the contrary notwithstanding.

## IX

Sect 1. The Senate of the United States shall have power to make treaties, and to appoint Ambassadors, and Judges of the supreme Court.

Sect. 2. In all disputes and controversies now subsisting, or that may hereafter subsist between two or more States, respecting jurisdiction or territory, the Senate shall possess the following powers. Whenever the Legislature, or the Executive authority, or lawful Agent of any State, in controversy with another, shall by memorial to the Senate, state the matter in question, and apply for a hearing; notice of such memorial and application shall be given by order of the Senate, to the Legislature or the Executive authority of the other State in Controversy. The Senate shall also assign a day for the appearance of the parties, by their agents, before the House. The Agents shall be directed to appoint, by joint consent, commissioners or judges to constitute a Court for hearing and determining the matter in question. But if the Agents cannot agree, the Senate shall name three persons out of each of the several States; and from the list of such persons each party shall alternately strike out one, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as

the Senate shall direct, shall in their presence, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them shall be commissioners or Judges to hear and finally determine the controversy; provided a majority of the Judges, who shall hear the cause, agree in the determination. If either party shall neglect to attend at the day assigned, without shewing sufficient reasons for not attending, or being present shall refuse to strike, the Senate shall proceed to nominate three persons out of each State, and the Clerk of the Senate shall strike in behalf of the party absent or refusing. If any of the parties shall refuse to submit to the authority of such Court; or shall not appear to prosecute or defend their claim or cause, the Court shall nevertheless ["pronounce" stricken out] proceed to pronounce judgment. The judgment shall be final and conclusive. The proceedings shall be transmitted to the President of the Senate, and shall be lodged among the public records, for the security of the parties concerned. Every Commissioner shall, before he sit in judgment, take an oath, to be administred by one of the Judges of the Supreme or Superior Court of the State where the cause shall be tried, "well and truly to hear and "determine the matter in question according to the best of "his judgment, without favor, affection, or hope of reward."

Sect. 3. All controversies concerning lands claimed under different grants of two or more States, whose jurisdictions, as they respect such lands shall have been decided or adjusted subsequent to such grants, or any of them, shall, on application to the Senate, be finally determined, as near as may be, in the same manner as is prescribed for deciding controversies between different States.



Sect. 1. The Executive Power of the United States shall be vested in a single person. His stile shall be "The President of the United States of America;" and his title shall be, "His Excellency". He shall be elected by ballot by the Legislature. He shall hold his office during the term of seven years; but shall not be elected a second time.

Sect. 2. He shall, from time to time, give information to the Legislature, of the state of the Union: he may recommend to their consideration such measures as he shall judge necessary, and expedient: he may convene them on extraordinary occasions. In case of disagreement between the two Houses, with regard to the time of adjournment, he may adjourn them to such time as he thinks proper: he shall take care that the laws of the United States be duly and faithfully executed: he shall commission all the officers of the United States; and shall appoint officers in all cases not otherwise provided for by this Constitution. He shall receive Ambassadors, and may correspond with the supreme Executives of the several States. He shall have power to grant reprieves and pardons; but his pardon shall not be pleadable in bar of an impeachment. He shall be commander in chief of the Army and Navy of the United States, and of the Militia of the Several States. He shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during his continuance in office. Before he shall enter on the duties of his department, he shall take the following oath or affirmation, "I ————  
"solemnly swear, (or affirm) that that I will faithfully execute the office of President of the United States of America."  
He shall be removed from his office on impeachment by the

House of Representatives, and conviction in the supreme Court, of treason, bribery, or corruption. In case of his removal as aforesaid, death, resignation, or disability to discharge the powers and duties of his office, the President of the Senate shall exercise those powers and duties, until another President of the United States be chosen, or until the disability of the President be removed.

## XI

Sect. 1. The Judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as shall, when necessary, from time to time, be constituted by the Legislature of the United States.

Sect. 2. The Judges of the Supreme Court, and of the Inferior Courts, shall hold their offices during good behaviour. They shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Sect. 3. The Jurisdiction of the Supreme Court shall extend to all cases arising under laws passed by the Legislature of the United States; to all cases affecting Ambassadors, other Public Ministers and Consuls; to the trial of impeachments of Officers of the United States; to all cases of Admiralty and maritime jurisdiction; to controversies between two or more States, (except such as shall regard Territory or Jurisdiction) between a State and Citizens of another State, between Citizens of different States, and between a State or the Citizens thereof and foreign States, citizens or subjects. In cases of impeachment, cases affecting Ambassadors, other Public Ministers and Consuls, and those in which a State shall be ["a" stricken out] party, this jurisdiction shall be original. In all the other cases

before mentioned, it shall be appellate, with such exceptions and under such regulations as the Legislature shall make. The Legislature may assign any part of the jurisdiction above mentioned (except the trial of the President of the United States) in the manner, and under the limitations which it shall think proper, to such Inferior Courts, as it shall constitute from time to time.

Sect. 4. The trial of all criminal offences (except in cases of impeachments) shall be in the State where they shall be committed; and shall be by Jury.

Sect. 5. Judgment, in cases of Impeachment, shall not extend further than to removal from Office, and disqualification to hold and enjoy any office of honour, trust or profit, under the United States. But the party convicted shall, nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

## XII

No State shall coin money; nor grant letters of marque and reprisals; nor enter into any treaty, alliance, or confederation; nor grant any title of Nobility.

## XIII

No State, without the consent of the Legislature of the United States, shall emit bills of credit, or make any thing but specie a tender in payment of debts; <sup>nor</sup> lay imposts or duties on imports; nor keep troops or ships of war in time of peace; nor enter into any agreement or compact with another State, or with any foreign power; nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent, as not to admit of delay, until the Legislature of the United States can be consulted.

## XIV

The Citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

## XV

Any person charged with treason, felony or high misdemeanor in any State, who shall flee from justice, and shall be found in any other State, shall, on demand of the Executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of the offence.

## XVI

Full faith shall be given in each State to the acts of the Legislatures, and to the records and judicial proceedings of the Courts and Magistrates of every other State.

## XVII

New States lawfully constituted or established within the limits of the United States may be admitted, by the Legislature, into this Government; but to such admission the consent of two thirds of the members present in each House shall be necessary. If a new State shall arise within the limits of any of the present States, the consent of the Legislatures of such States shall be also necessary to its admission. If the admission be consented to, the new States shall be admitted on the same terms with the original States. But the Legislature may make conditions with the new States, concerning the public debt which shall be then subsisting.

## XVIII

The United States shall guaranty to each State a Republican form of Government; and shall protect each State against foreign invasions, and, on the application of its Legislature, against domestic violence.

## XIX

On the application of the Legislatures of two thirds of the States in the Union, for an amendment of this Constitution, the Legislature of the United States shall call a Convention for that purpose.

## XX

The members of the Legislatures, and the Executive and Judicial officers of the United States, and of the several States, shall be bound by oath to support this Constitution.

## XXI

The ratifications of the Conventions of           States shall be sufficient for organizing this Constitution.

## XXII

This Constitution shall be laid before the United States in Congress assembled, for their approbation; and it is the opinion of this Convention, that it should be afterwards submitted to a Convention chosen, under the recommendation of its legislature, in order to receive the ratification of such Convention.

## XXIII

To introduce this government, it is the opinion of this Convention, that each assenting Convention should notify its assent and ratification to the United States in Congress assembled; that Congress, after receiving the assent and ratification of the Conventions of           States, should appoint and publish a day, as early as may be, and appoint a place for commencing proceedings under this Constitution; that after such publication, the Legislatures of the several States should elect members of the Senate, and direct the election of members of the House of Representatives; and that the

members of the Legislature should meet at the time and place assigned by Congress, and should, as soon as may be, after their meeting, choose the President of the United States, and proceed to execute this Constitution."

A motion was made [<sup>" & negatived "</sup> stricken out] to adjourn till Wednesday, in order to give leisure to examine the Report : which passed in the Negative — N. H. no. Mas — no. Ct. no. Pa. ay Md. ay. Virg. ay. N. C. no. S — C. no

The House then adjourned till tomorrow 11 OC.

Teusday ["August" written upon "July"] 7<sup>th</sup> In Convention

The Report of the Committee <sup>of detail being</sup> taken up,

M<sup>r</sup> Pinkney moved that it be referred to a Committee of the whole. This was strongly opposed by M<sup>r</sup> Ghorum and several others, as likely to produce unnecessary delay; and was negatived. <sup>being in the affirmative.</sup> Delaware Mary<sup>d</sup>. & Virg<sup>a</sup>. only

The ["Caption" stricken out] <sup>preamble</sup> of the Report was agreed to nem. con. So were Art: I & II.

Art: III. <sup>considered.</sup> Col. Mason doubted the propriety of giving each branch a negative on the other "in all cases". There were some cases in which it was he supposed not intended to be given as in the case of balloting for appointments.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to <sup>insert</sup> "legislative acts" instead of "all cases"

M<sup>r</sup> Williamson 2<sup>ds</sup> him.

M<sup>r</sup> Sherman. This will restrain the operation of the clause too much. It will particularly exclude a mutual negative in the case of ballots, which he hoped would take place.

M<sup>r</sup> Ghorum contended that elections ought to be made by joint ballot. If separate ballots should be made for the Presi-



dent, and the two branches should be each attached to a favorite, great delay, <sup>contention</sup> & confusion may ensue. These inconveniences have been felt in Mass<sup>s</sup> in the election of officers of little importance compared with the Executive of the U. States. The only objection ag<sup>st</sup> a joint ballot is that it may deprive the Senate of their due weight; but this ought not to prevail over the respect due to the public tranquillity & welfare.

[“M<sup>r</sup> Gov<sup>r</sup> Morris” stricken out] M<sup>r</sup> Wilson was for a joint ballot in several cases at least; particularly in the choice of a President, and was therefore for the amendment. Disputes between the two Houses, <sup>during &</sup> concern<sup>g</sup> the vacancy of the Executive, might have dangerous consequences.

Col. Mason thought the amendment of M<sup>r</sup> Gov<sup>r</sup> Morris extended too far. Treaties are in <sup>a subsequent part</sup> declared to be laws, they will be therefore subjected to a negative; altho’ they are to <sup>be</sup> made as proposed by the Senate alone. He proposed that the mutual negative should be restrained to “cases requiring the distinct assent” of the two Houses.

M<sup>r</sup> Gov<sup>r</sup> Morris thought this but a repetition of the same thing; the mutual negative and distinct assent, being equavalent expressions. Treaties he thought were not laws.

[“M<sup>r</sup> Pinkney” stricken out] M<sup>r</sup> <sup>Madison</sup> moved to strike out the words “each of which shall in all cases, have a negative on the other; the idea being sufficiently expressed in the [“the” stricken out] preceding member of the Article; vesting the “legislative power” in “distinct bodies”. especially as the respective powers and mode of exercising them were [“more” stricken out] fully delineated in a subsequent article.

Gen<sup>l</sup> Pinkney 2<sup>d</sup> the motion

On <sup>a</sup> question for inserting legislative Acts as moved by  
M<sup>r</sup> Gov<sup>r</sup> Morris

N. H. ay. Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no.  
N. C. ay. S. C. no. Geo. ay.

On question for agreeing to' M<sup>r</sup> M's motion to strike out &c—

N. H. ay. Mas. ay. C<sup>t</sup> no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay.  
N- C- no. S. C. ay. Geo. ay.

M<sup>r</sup> <sup>Madison</sup> wished to know the reasons of the Com<sup>e</sup> for  
<sup>by ye. Constitution</sup> fixing <sup>^</sup> the time of Meeting for the Legislature; and sug-  
gested, that it be required only that one meeting at least  
should be held every year leaving the time to be fixed or  
varied by law.

M<sup>r</sup> Gov<sup>r</sup> Mor moved to strike out the sentence. It was  
improper to tie down the Legislature to a particular time, or  
even to require a meeting every year. The public business  
might not require it.

M<sup>r</sup> Pinckney concurred with M<sup>r</sup> <sup>Madison</sup>

M<sup>r</sup> Ghornum. If the time be not fixed by the Constitution,  
disputes will arise in the Legislature; and the States will be  
at a loss to adjust thereto, the times of their elections. In  
the N. England States, the <sup>annual</sup> time of meeting <sup>^</sup> had been long  
fixed by their Charters and Constitutions, and no inconven-  
iency had resulted. He thought it necessary that there  
should be one meeting at least every year as a check on the  
Executive department.

M<sup>r</sup> Elseworth was ag<sup>st</sup> striking out the words. The Legis-  
lature will not know till they are met whether the public  
interest required their meeting or not. He could see no  
impropriety in ["the" stricken out] fixing the day, as the  
Convention could judge <sup>of it</sup> <sup>^</sup> as well <sup>^</sup> ["of it" stricken out] as  
the Legislature.

Mr Wilson thought on the whole it would be best to fix the day.

Mr King could not think there would be a necessity for a meeting every year. A great vice in our system was that of legislating too much. The most numerous objects of legislation belong to the States. Those of the Nat<sup>l</sup> Legislature were but few. The chief of them were commerce & revenue. When these should be once <sup>settled</sup> ["forced" stricken out], alterations would be rarely necessary & easily made.

Mr <sup>Madison</sup> thought if the time of meeting should be fixed <sup>it wd, be sufficiently fixed &</sup> by a law <sup>then</sup> there would be no difficulty as had been suggested, on the part of the States in adjusting their elections to it. One consideration appeared to him to militate strongly ag<sup>st</sup> fixing a time by the Constitution. It might happen that the Legislature might be called together by the public exigencies & finish their Session but a short time before the annual period. In this case it would be extremely inconvenient to reassemble so quickly & without the least necessity. He thought one annual meeting ought to be required; but did not wish to make two unavoidable.

Col. Mason thought the objections against fixing the time insuperable; but that an annual meeting ought to be required as essential to the preservation of the Constitution. The extent of the Country will ["also" stricken out] supply business. And if it should not, the Legislature, besides legislative, is to have inquisitorial powers, which can not safely be long kept in a State of suspension.

Mr Sherman was decided for fixing the time, as well as for frequent meetings of the Legislative body. Disputes and difficulties will arise between the two Houses, & between both & the States, if the time be changeable—frequent

meetings <sup>of Parliament were</sup> required at the Revolution in England as an essential [“article” stricken out] <sup>safeguard</sup> of liberty. So also in most of the American charters and constitutions. There will be business eno’ to require it. The Western Country, and the great extent and varying state of our affairs in general will supply objects.

[“M<sup>r</sup> Pinkney was opposed to” stricken out]

M<sup>r</sup> Randolph was ag<sup>st</sup> fixing any day irrevocably; but as there was <sup>no provision made</sup> [“power given” stricken out] any where in the Constitution [“to fix it on” stricken out] for regulating the periods of meeting, and some precise time must be fixed, untill the Legislature shall make provision, he could not agree to strike out the words altogether. Instead of which <sup>to add the words following—“unless a different day shall be appointed by law.”</sup> he moved [“that the time named should remain ‘until altered by law’” stricken out]

M<sup>r</sup> Madison 2<sup>d</sup> the motion, & on the question

N. H. no. Mas. ay. C<sup>t</sup> no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out Dec<sup>r</sup> & insert May. It might frequently happen that our measures ought to be influenced by those in Europe, which were generally planned during the Winter and of which intelligence would arrive in the Spring.

M<sup>r</sup> Madison 2<sup>d</sup> the motion. he preferred May to Dec<sup>r</sup> because the latter would require the travelling to & from the Seat of Gov<sup>t</sup> in the most inconvenient seasons of the year.

M<sup>r</sup> Wilson. The Winter is the most convenient season for business.

M<sup>r</sup> Elseworth. The summer will interfere too much with private business, that of almost all the probable members of the Legislature being more or less connected with agriculture.

M<sup>r</sup> Randolph. The time is of no great moment now, as the Legislature can vary it. On looking into the Constitutions of the States, he found that the times of their elections with which the elections of the Nat<sup>l</sup> Representatives would no doubt be made to co-incide, ["and" stricken out] would suit better with Dec<sup>r</sup> than May. And it was advisable to render our innovations as little incommodious as possible.

On question for "May" instead of "Dec<sup>r</sup>"

N. H. no. Mas. no. C<sup>t</sup> no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. ay.

M<sup>r</sup> Read <sup>after the word "Senate" the words "subject</sup> moved to insert ["words 'subjecting to the legislative power" stricken out] to the Negative to be hereafter provided". His object was to give an absolute negative to the Executive— He considered this as so essential to the Constitution, to the preservation of liberty, & to the public welfare, that his duty compelled him to make the motion.

M<sup>r</sup> Gov<sup>r</sup> Morris 2<sup>d</sup> him. And on the question

N. H. no. Mas. no. C<sup>t</sup> no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Rutledge. Altho' it is agreed on all hands that an annual meeting of the Legislature should be made necessary, yet that point seems not to be freed from doubt as the clause stands. On this suggestion. "Once at least in every year." were inserted, nem. con.

Art. III with the foregoing alterations was ag<sup>d</sup>.  
["the article" effaced]  
 to nem. con.

and is as follows { "The Legislative power shall be vested in a Congress to consist of 2 separate & distinct bodies of men; ["a Senate" stricken out] a House of Rep<sup>s</sup>. & a Senate ["each of which" stricken out] The Legislature shall meet at least once in every year, and such meeting shall be on the 1<sup>st</sup>. monday in Dec<sup>r</sup>, unless a different day shall be appointed by law".

"Art IV. Sect. 1. taken up."

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out the last member of the section ["relating to" stricken out] <sup>beginning with the words</sup> "qualifications" of Elect-

ors." in order that some other ["plan" stricken out] provision might be substituted which w<sup>d</sup> restrain the right of suffrage to freeholders.

Mr Fitzsimmons 2<sup>d</sup> the motion

Mr Williamson was opposed to it.

Mr Wilson. This part of the Report was well considered by the Committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations he thought too should be avoided. It would be very <sup>hard &</sup> disagreeable for the same persons, at the same time, to vote for ["their State Legislature" stricken out] representatives in the State Legislature and to be excluded from a vote <sup>for</sup> those in the Nat<sup>l</sup> Legislature.

Mr Gov<sup>r</sup> Morris. Such a hardship would be neither great nor novel. The people are accustomed to it and not dissatisfied with it, in several of the States. In some the qualifications are different for the choice of the Gov<sup>r</sup> & Representatives; In others for different Houses of the Legislature. Another objection ag<sup>st</sup> the clause as it stands is that it makes the qualifications of the Nat<sup>l</sup> Legislature depend on the will of the States, which he thought not proper.

Mr Elseworth. thought the qualifications of the electors ["put" stricken out] <sup>stood</sup> on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the <sup>State</sup> Constitutions. The people will not readily subscribe to the Nat<sup>l</sup> Constitution, if it should subject them to be disfranchised. The States are the best Judges of the circumstances and temper of their own people.

Col. Mason. The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point.



Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised. A power to alter the qualifications would be a dangerous power in the hands of the Legislature.

Mr Butler. There is no right of which the people are more jealous than ["n" written upon "t"] that of suffrage. Abridgments of it tend to the same revolution as in Holland, ["has" stricken out] <sup>where they have</sup> at length thrown all power into the hands of the Senates, who fill up vacancies themselves, and ["has" stricken out] form["ed" stricken out] a rank aristocracy.

Mr Dickenson. had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the Country. He considered them as the best guardians of liberty; And the ["limits" stricken out] restriction of the right to them as a necessary defence against the dangerous influence of those multitudes without property & without principle, with which our Country like all others, will in time abound. As to the unpopularity of the innovation it was in his opinion chimerical. The great mass of our Citizens is composed at this time of freeholders, and will be pleased with it.

Mr Elsworth. How shall the freehold be defined? ["Why" stricken out] Ought not every man who pays a tax ["chuse" stricken out] <sup>to vote for</sup> the representative who is to levy & dispose of his money? Shall the wealthy merchants and manufacturers, who will bear a full share of the public burdens be not allowed a voice in the imposition of them ["?" stricken out] <sup>taxation and representation ought to go together.</sup>

Mr Gov<sup>r</sup> Morris. He had long learned not to be the dupe of words. The sound of Aristocracy therefore, had no effect

upon him. It was the thing, not the name, to which he was opposed, and one of his principal objections to the Constitution as it is now before us, is that it threatens the Country with an Aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this Country will abound with mechanics & manufacturers who will receive their bread from their employe["rs" written upon "d"]. Will such men be the secure & faithful Guardians of liberty? Will they be the impregnable barrier ag<sup>st</sup> aristocracy?—He was as little duped by the <sup>association of the</sup> words, "taxation & Representation"—The man who does not give his vote freely is not represented. It is the man who dictates the vote. Children do not vote. Why? because they want prudence. because they have no will of their own. The ignorant & the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining "freeholders" to be insuperable. Still less that the restriction could be unpopular.  $\frac{9}{10}$  of the people are at present freeholders and these will certainly be pleased with it. As to Merch<sup>ts</sup> &c. if they have wealth & value the right they can <sup>c</sup>acquire it. If not <sup>they</sup> don't deserve it.

Col. Mason. We all feel too strongly the remains of antient prejudices, and view things too much through a British Medium. <sup>A</sup>Freehold["ers" stricken out] is the qualification in England, & hence it is imagined to be the only proper one. The true idea in his opinion was that every man having evidence of attachment to & permanent common interest with the Society ought to share in all its rights

& privileges. Was this qualification restrained to freeholders? ["Have" stricken out] Does no other kind of property but land evidence a common interest in the proprietor? does nothing besides property mark a permanent attachment. Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in their <sup>his</sup> own <sup>Country,</sup>, to be viewed as suspicious ["Citizens," stricken out], and unworthy to be trusted with the <sup>characters</sup> ["ir" stricken out] common rights of their fellow Citizens

Mr Madison. the right of suffrage["s" effaced] is certainly one of the fundamental articles of republican Government, and ought not to be left ["the" stricken out] to be regulated by the Legislature. A gradual abridgment of this right has been the mode in which Aristocracies have been built on the ruins of popular forms. Whether the Constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in ["the" stricken out] States where the right was now exercised by every description of people. In several of <sup>the</sup> States a freehold was now the qualification. Viewing the subject in its merits alone, ["he was persuaded that" stricken out] the freeholders of the Country would be <sup>the</sup> safest depositories of Republican liberty. In future times a great majority of the <sup>people</sup> ["majority" stricken out] will not only be without landed, but any other sort of, property. These will either combine under the influence of their common situation; in which case, ["if the authority be in their hands by the rule of suffrage," stricken out] the rights of property & the public liberty, will not be secure in their hands. ["good, will not be thought bid fair to be very secure" stricken out]: or which is more probable, they will become the tools of opulence & ambition, in which case there will

be equal danger on another side. The example of England has been misconceived [by Col Mason]. ["The" stricken out] A very small proportion of the Representatives are there chosen by freeholders. The greatest part are chosen by ["y<sup>e</sup> Cities" stricken out] <sup>the Cities</sup> & boroughs, in many of which the ["right" stricken out] <sup>qualification</sup> of suffrage ["is" written upon "was"] as low as it is in any ["State" stricken out] one of the U. S. and it was in ["those places" stricken out] <sup>the boroughs & Cities</sup> rather than the Counties, that bribery most prevailed, & the influence of the Crown on elections was most dangerously exerted.

Doc<sup>r</sup> Franklin. It is of great consequence that we sh<sup>d</sup> not depress the <sup>virtue & public</sup> spirit["s" stricken out] of our common people; of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it. He related the honorable refusal of the American seamen who were carried in great numbers into the British Prisons during the war, to redeem themselves from misery or to ["make" stricken out] seek their fortunes, by entering on board the Ships of the Enemies to their Country; contrasting their patriotism with a contemporary instance in which the British seamen ["readi-" stricken out] made prisoners by the Americans, readily entered on the ships of the latter on being promised a share of the prizes that might be made out of their own Country. This proceeded he said, from the different manner in which the common people were treated in America & G. Britain. He did not think that ["those seamen" stricken out] <sup>the</sup> elected had any right <sup>in any case</sup> to narrow the privileges of the electors. He quoted as arbitrary the British Statute setting forth the danger of tumultuous meetings, and under that pretext, narrowing the right of

suffrage to persons having freeholds of a certain value; observing that this Statute was soon followed by another under the succeeding Parliam<sup>t</sup> subjecting the people who had no votes ["from" stricken out] to peculiar labors & hardships. He was persuaded also that such a restriction as was proposed would give great uneasiness in the populous States. The sons of a substantial farmer, not being themselves freeholders, would not be pleased at being ["degraded" stricken out] disfranchised, ["and" stricken out] and there<sup>are a</sup> great many persons of that description.

M<sup>r</sup> Mercer. The Constitution is objectionable in many points, but in none more than the present. He objected to the footing on which the qualification was put, but particularly to the mode of election by the people. The people can not know & judge of the characters of Candidates. The worse possible choice will be made. He quoted the case of the Senate in Virg<sup>a</sup> as an example in point- The people in Towns can unite their votes in favor of one favorite; ["The" stricken out] & by that means always prevail over the people of the Country, who being dispersed will scatter their votes among a variety of candidates.

M<sup>r</sup> Rutledge thought the idea of restraining the right of suffrage to the freeholders a very unadvised one. It would create division among the people & make enemies of all those who should be excluded.

On the question for striking out as moved by M<sup>r</sup> Gov<sup>t</sup> Morris, from the word "qualifications" to the end of the III article

N. H. no. Mas. no. C<sup>t</sup> no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no.  
N- C. no. S. C. no. Geo. not pres<sup>t</sup>

Adjourned

Wednesday Aug<sup>st</sup> 8. In Convention

Art: IV. Sect. 1.—M<sup>r</sup> Mercer expressed his dislike of the whole plan, and his opinion that it never could succeed.

M<sup>r</sup> Ghorum. He had never seen any inconveniency from allowing such as were not freeholders to vote, though it <sup>had</sup> long been tried. The elections in Phil<sup>a</sup> N. York & Boston where the Merchants, & Mechanics vote are at least as good as those made by freeholders only. The case in England was not accurately stated yesterday [by M<sup>r</sup> Madison] The Cities & large towns are not the seat of Crown influence & corruption. These prevail in the Boroughs, and not on account of <sup>the</sup> right <sup>^</sup> which those who are not freeholders have to vote, but of the smallness of the number who vote. The people have been long accustomed to this right in various parts of America, and will never allow it to be abridged. We must consult their rooted prejudices if we expect their concurrence in our propositions.

M<sup>r</sup> Mercer did not object so much to <sup>an</sup> election by the people at large including such as were not freeholders, as to their being left to make their choice without any guidance. He hinted that Candidates ought to be nominated by the State Legislatures.

On question for agreeing to Art: IV- Sect. 1 it pass<sup>d</sup> nem. con.

Art. IV. Sect. 2. [“pass<sup>d</sup> nem. con.” stricken out] taken up.

Col. Mason was for opening a wide door for emigrants; but did not chuse to let foreigners and adventurers make laws for us & govern us. Citizenship for three years was not enough for ensuring that local knowledge which ought to be possessed by the Representative. This was the principal ground of his objection to so short a term. It might



also happen that a rich foreign Nation, for example Great Britain, might send over her tools who might bribe their way into the Legislature for insidious purposes. He moved that "seven" years instead of "three," be inserted.

M<sup>r</sup> Gov<sup>r</sup> Morris 2<sup>d</sup><sup>ed</sup> the motion, & on the question, All the States agreed to it except Connecticut.

M<sup>r</sup> Sherman moved to strike out the word "resident" and insert "inhabitant," as less liable to misconstruction.

M<sup>r</sup> Madison 2<sup>d</sup><sup>ed</sup> the motion. both were vague, but the latter ["less liable" stricken out] least so in common acceptance, and would not exclude persons absent occasionally for a considerable time on public or private business. Great disputes had been raised in Virg<sup>a</sup> concerning the meaning of residence

as a qualification of Representatives

which were determined more according to the affection or dislike to the man <sup>in question</sup>, than to any fixt interpretation of the word.

M<sup>r</sup> Wilson preferred "inhabitant."

M<sup>r</sup> Gov<sup>r</sup> Morris was opposed to both and for requiring nothing more than a freehold. He quoted great disputes in N. York occasioned by these terms, which were decided by the arbitrary will of the majority. Such a regulation <sup>is</sup> not necessary.

People rarely chuse a nonresident — It is improper as in <sup>the</sup> 1<sup>st</sup> branch, the people at large, not the States, are represented.

M<sup>r</sup> Rutlidge urged & moved that a residence of 7 years sh<sup>d</sup> be required in the State Wherein the Member sh<sup>d</sup> be elected. An emigrant from N. England to S. C. or Georgia would know ["as" stricken out] little of its affairs and could not be supposed to acquire a thorough knowledge in less time.

M<sup>r</sup> Read reminded him that we were now forming a Nati<sup>l</sup> Gov<sup>t</sup> and such a regulation would correspond little with the idea that we were one people.

M<sup>r</sup> Wilson— enforced the same consideration.

M<sup>r</sup> Madison suggested the case of new States in the West, which could have perhaps no representation on that plan.

M<sup>r</sup> Mercer. Such a regulation would present a greater alienship among the States tha[“n” written upon “t”] existed under the old federal system. It would interweave local prejudices & State distinctions in the very Constitution which is meant to cure them. He mentioned instances of violent disputes raised in Maryland [“under these” stricken out] concerning the term “residence”

M<sup>r</sup> Elsworth thought seven years of residence was by far too long a term: but that some fixt term of previous residence would be proper. He thought one year would be sufficient, but seemed to have no objection to three years.

M<sup>r</sup> Dickenson[“s” effaced] proposed <sup>that it should read</sup> “inhabitant actually resident for ——— year .” This would render the meaning less indeterminate.

M<sup>r</sup> Wilson. If a short term should be inserted in the blank, [“it might” stricken out] so strict an expression might be construed to exclude the members of the Legislature, who could not be said to be actual residents in their States whilst at the Seat of the Gen<sup>l</sup> Government.

M<sup>r</sup> Mercer. It would certainly exclude men, who had once been inhabitants, and returning from residence elsewhere to resettle in their original State; although a want of the necessary knowledge could not in such case be presumed.

M<sup>r</sup> Mason thought 7 years too long, but would never agree to part with the principle. It is a valuable principle. He thought it a defect in the plan that the Representatives would be too few to bring with them all the local knowledge necessary. If residence be not required, Rich men [“may”

stricken out] of neighbouring States, may employ with success the means of corruption in some particular district and thereby get into the public Councils after having failed in their own State. This is the practice in the boroughs of England.

On the question for postponing in order to consider M<sup>r</sup> Dickinsons motion

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay.  
V<sup>a</sup> no. N. C. no. S. C. ay. Geo. ay.

On <sup>the</sup> question for inserting "inhabitant" in place of "resident"—Ag<sup>d</sup> to nem. con.

M<sup>r</sup> Elseworth & Col. Mason move to insert "one year" for previous inhabitancy

M<sup>r</sup> Williamson liked the Report as it stood. He thought "resident" a good eno' term. He was ag<sup>st</sup> requiring any period of previous residence. New residents if elected will be most zealous to Conform to the will of their constituents, ["less" stricken out] as their conduct will be watched with a more jealous eye.

M<sup>r</sup> Butler & M<sup>r</sup> Rutledge moved "three years" instead of "one year" for previous inhabitancy.

On the question for 3 years.

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no.  
V<sup>a</sup> no. N. C. no. S. C. ay. Geo. ay

On the question for "1 year"

N. H. no—Mas—no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no—N—C. ay—S. C. ay. Geo—ay

Art. IV—Sect. 2. As amended in manner preceding, was agreed to nem. con.

Art: IV. Sect. 3. "taken up.

Gen<sup>l</sup> Pinkney & M<sup>r</sup> Pinkney moved that the number of representatives allotted to S. Carol<sup>a</sup> be "six"

On the question.

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. <sup>Delaware ay</sup> M<sup>d</sup> no. V<sup>a</sup> no.  
N. C. ay. S. C. ay. Geo. ay.

The 3. Sect of Art: IV was then agreed to.

Art: IV. Sect. 4. taken up.

M<sup>r</sup> Williamson moved to strike out “according to the provisions hereinafter made” and to insert words <sup>the</sup> [“referring” stricken out] <sup>“according</sup> “to the rule hereafter to be provided for direct taxation.”—See Art VII. sect. 3.  
[“not exceeding one for every forty 40,000” stricken out]

On the question for agreeing to M<sup>r</sup> Williamson’s amendment

N. H— ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. [“C” written upon “H”]. ay. S. C. ay. Geo. ay.

M<sup>r</sup> King wished to know what influence the vote just passed was meant have on [“on” stricken out] the succeeding part of the Report, concerning the admission of slaves into the rule of Representation. He could not reconcile his mind to the article if it was to prevent objections to the latter part. The admission of slaves was a most grating circumstance to his mind, & he believed would be so to a great part of the people of America. He had not made a strenuous opposition to it heretofore because he had hoped that this concession would have produced a readiness which had not been manifested, to strengthen the Gen<sup>l</sup> Gov<sup>t</sup> and to mark a full confidence in it. The Report under consideration had by the tenor of it, put an end to all these hopes. [“The” stricken out] In two great points the hands of the Legislature were absolutely tied. The importation of slaves could not be prohibited—exports could not be taxed. Is this reasonable? What are the great objects of the Gen<sup>l</sup> System?  
1. defence ag<sup>st</sup> foreign invasion. 2. ag<sup>st</sup> internal sedition.  
Shall all the States then be bound to defend each; & shall

each be at liberty to introduce <sup>a</sup> weakness which will render defence more difficult? Shall one part of the U. S. be bound to defend another part, and that other part be at liberty not only to increase its own danger, but to withhold the compensation for the burden? If slaves are to be imported shall not the exports produced by their labor, ["be subject to be taxed be" stricken out] supply a revenue the better to enable the Gen<sup>l</sup> Gov<sup>t</sup> to defend their Masters?—There was so much inequality & unreasonableness in all this, that the people of the Northern States could never be reconciled <sup>to it</sup>. No candid man could undertake to justify it to them. He had hoped that some accommodation w<sup>d</sup> have taken place on this subject; that at least a time w<sup>d</sup> have <sup>been</sup> limited for the importation of slaves. He never could agree to let them ["to" stricken out] be imported without limitation & then be represented in the Nat<sup>l</sup> Legislature. Indeed he ["had" stricken out] could so little <sup>persuade</sup> ["reconcile" stricken out] himself ["of" written upon "to"] the rectitude of such a practice, that he was not sure he could assent to it under any circumstances. At all events, either slaves should not be represented, or exports should be taxable.

Mr Sherman regarded the slave-trade as iniquitous; but the point of representation having been settled after much difficulty & deliberation, he did not think himself bound to make opposition; especially as the present article as amended did not preclude any arrangement <sup>whatever on that point</sup> in another place of the Report, ["on that point" stricken out].

Mr Madison objected to ["this ratio of" stricken out] 1 for every 40,000, inhabitants <sup>as a perpetual rule</sup>. The future increase of population if the Union sh<sup>d</sup> be permanent, will render the number of Representatives excessive.

M<sup>r</sup> Ghornu. It is not to be supposed that the Gov<sup>t</sup> will last so long as to produce this effect. Can it be supposed that this ["great" stricken out] vast Country including the Western territory will 150 years hence remain one nation?

M<sup>r</sup> Elsworth. If the Gov<sup>t</sup> should continue so long, alterations may be made in the Constitution in the manner proposed in a subsequent article.

M<sup>r</sup> Sherman & M<sup>r</sup> Madison moved to insert the words "not exceeding" before the words "1 for every 40,000, which was agreed to nem. con.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to insert "free" before the word "inhabitants." Much he said would depend on this point. He never would concur in upholding domestic slavery. It was a nefarious institution—It was the curse of heaven on the States where it prevailed. Compare the free regions of the Middle States, where a rich & noble cultivation marks the prosperity & happiness of the people, with the misery & poverty which overspread the barren wastes of V<sup>a</sup> Mary<sup>d</sup> & the other States having slaves.

Travel thro' ye who'e Continent & you behold the prospect continually varying with the appearance & disappearance of slavery. The moment you leave ye E. Sts & enter N. York, the effects of the institution become visible: Passing thro' the Jerseys and entering Pa<sup>a</sup> every criterion of superior improvement witnesses the change. Proceed Southw<sup>d</sup>ly, ["thro' the large region of" stricken out] & every step you take thro' ye great regions of slaves, presents a desert increasing with ye increasing proportion proportion of these wretched beings.

what Upon principle is it that the slaves shall be computed in the representation? Are they men? Then make them Citizens & let them vote? Are they property? Why then is no other property included? The Houses in this City [Philad<sup>a</sup>] are worth more than all the wretched slaves which cover the rice swamps of South Carolina. The admission of slaves into the Representation when fairly explained comes to this: that ["because" stricken out] the inhabitant of Georgia and S. C. who goes to the Coast of Africa, and in defiance of the most <sup>sacred</sup> laws of humanity ["tears away his" stricken out] tears away his fellow creatures from



their dearest connections & damns them to the most cruel bondage["s" effaced], shall have more votes in a Gov<sup>t</sup> instituted for protection of the rights of mankind, than the Citizen of P<sup>a</sup> or N. Jersey who views a <sup>with</sup> laudable horror, so nefarious a practice. <sup>He would add that</sup> Domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. ["Domestic vassalage has ever been" stricken out] The vassalage of the poor has ever been the favorite offspring of Aristocracy. And What is ["to be the" stricken out] <sup>the proposed</sup> compensation to the Northern States for a sacrifice of every principle of right, ["&" stricken out] of every impulse of humanity. They are to bind themselves to march their militia for the defence of the S. States; ["assault" stricken out] for their defence ag<sup>st</sup> those very slaves of whom they complain. They must supply vessels & seamen, in case of foreign Attack. The Legislature will have indefinite power to tax them by excises, and duties on imports: both of which will fall heavier on them than on the Southern inhabitants; for the bohea tea used by a Northern freeman, will pay more tax than the whole consumption of the miserable slave["s" stricken out], which consists of nothing more tha["n" written upon "t"] his physical subsistence and the rag tha["t" written upon "n"] covers his nakedness. On the other side the Southern States are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack, and the difficulty of defence; nay they are to be encouraged to it by an assurance of having their votes in the Nat<sup>l</sup> Gov<sup>t</sup> increased in proportion. and are at the same time to have their exports exempt from all contributions <sup>& their slaves</sup> for the public service. Let it not be said that direct

taxation is to be proportioned to representation. It is idle to suppose that the Gen<sup>l</sup> Gov<sup>t</sup> can stretch its hand directly into the pockets of the people scattered over so vast a Country. They can only do it through the medium of exports imports & excises. For what then are all these sacrifices to be made? He would sooner submit himself to a tax for paying for all the Negroes in the U. States. tha["n" written upon "t"] saddle posterity with such a Constitution.

Mr Dayton 2<sup>d</sup> the motion. He did it he said, <sup>that</sup> ["to mark" stricken out] his sentiments on the subject might appear whatever might be the fate of the amendment.

Mr Sherman. did not regard the admission of the Negroes into the ratio of representation, as liable to such insuperable objections. It was the freemen of the South<sup>n</sup> States who were in fact to be represented according to the taxes paid by them, and the Negroes <sup>are</sup> only included in the Estimate of the taxes. This was his idea of the matter.

Mr Pinkney, considered the fisheries & the Western frontier as more burdensome to the U. S. <sup>than</sup> the slaves— He thought this could be demonstrated if the occasion were a proper one.

Mr Wilson. thought the motion premature— An agreement to the clause would be no bar to the object of it.

Question On Motion to insert "free" before "inhabitants."

N. H— no. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

On the suggestion of Mr Dickenson <sup>the words</sup>, "provided that each State shall have one representative at least."—were added nem. con.

<sup>as amended was</sup>  
Art. IV. sect. 4. Agreed to nem. con.

Art. IV. sect. 5. taken up

Mr Pinkney moved to strike out ["Art." stricken out] Sect. 5, As giving no peculiar advantage to the House of Representatives, and <sup>as</sup> clogging the Gov<sup>t</sup>. If the Senate can be trusted with the many <sup>of</sup> great powers proposed, it surely may be trusted with that originating money bills.

Mr Ghorum. was ag<sup>st</sup> allowing the Senate to originate; but <sup>only</sup> to amend.

Mr Gov<sup>r</sup> Morris. It is particularly proper that the Senate sh<sup>d</sup> have the right of originating money bills. They will sit constantly. will consist of a smaller number. and will be able to prepare such bills with due correctness; and so as to prevent delay of business in the other House.

Col. Mason was unwilling to travel over this ground again. To strike out the section, was to unhinge the compromise of which it made a part. The duration of the Senate made it improper. He does not object to that duration. On the Contrary he approved of it. But joined with the smallness <sup>against</sup> of the number, it was an argument adding this to the other great powers vested in that body. His idea of an Aristocracy was that it was the govern<sup>t</sup> of the few over the many. An aristocratic body, like the screw in mechanics, worki<sup>g</sup> its way by slow degrees, and holding fast whatever it gains, ["ought always to be watchfully" stricken out] should ever be suspected of an encroaching tendency— The purse strings should never be put into its hands.

Mr Mercer, considered the exclusive power of originating Money bills as so great an advantage, that it rendered the equality of votes in the Senate ideal & of no consequence.

Mr Butler was for adhering to the principle which had been settled.

Mr Wilson <sup>was</sup> opposed to it on its merits, with <sup>out</sup> regard to the compromise

M<sup>r</sup> Elsworth did not think the clause of any consequence, but as it was thought of consequence by some members from the larger States, he was willing it should stand.

M<sup>r</sup> Madison was for striking it out: considering it as of no advantage to the large States ["and" stricken out] as fettering the Gov<sup>t</sup> and as a source of injurious altercations between the two Houses.

On the question for striking out "Sect. 5. art. IV"

N. H. no. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. C. no. S. C. ay. Geo. ay.

Adj<sup>d</sup>

Thursday. Aug<sup>st</sup> 9. in Convention

Art: IV. sect. 6. M<sup>r</sup> Randolph expressed his dissatisfaction at the disagreement yesterday to sect 5. concerning money bills, as endangering the success of the plan, and extremely objectionable in itself; and gave notice that he should move for a reconsideration of the vote.

M<sup>r</sup> Williamson said he had formed a like intention.

M<sup>r</sup> Wilson, gave notice that he sh<sup>d</sup> move to reconsider the vote, requiring seven instead of three years of Citizenship as a qualification of candidates for the House of Representatives.

Art. IV. sect. 6 & 7. Agreed to nem. con.

Art. V. sect. 1. taken up.

M<sup>r</sup> Wilson objected to vacancies in the Senate being supplied by the Executives of the States. It was unnecessary as the Legislatures will meet so frequently. It removes the appointment too far from the people; the Executives in most of the States being elected by the Legislatures. As he had always thought the appointment of the Executive["s"

effaced] by the Legislative department wrong: so it was still more so that the Executive should elect into the Legislative department.

M<sup>r</sup> Randolph thought it necessary <sup>in order</sup> to prevent inconvenient chasms in the Senate. In some States the Legislature meet but once a year. As the Senate will have more power & consist of a smaller number than the other House, vacancies there will be of more consequence. The Executives might be safely trusted [<sup>"with" stricken out</sup>] he thought with the appointment for so short a time.

M<sup>r</sup> Elsworth. It is only said that the Executive may supply vacancies. When the Legislative meeting happens to be near, the power will not be exerted. As there will be but two members from a State vacancies may be of great moment.

M<sup>r</sup> Williamson. Senators may resign or not accept. This provision is therefore absolutely necessar[<sup>"y" written upon</sup> "ily"].

On the question for striking out "vacancies shall be supplied by Executives

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no. N. Ć. no. S. C. no. Geo. no.

M<sup>r</sup> Williamson moved to insert after "vacancies shall be supplied by the Executives", the following words "unless other provision shall be made by the Legislature" [of the State].

M<sup>r</sup> Elsworth. He was willing to trust the Legislature, or the Executive of a State, but <sup>not</sup> to give the former a discretion to refer [<sup>"the" stricken out</sup>] appointments for the Senate to whom they pleased.

Question on M<sup>r</sup> Williamson's motion

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. M<sup>d</sup> ay. V<sup>a</sup> no.  
N- C. ay. S. C. ay- Geo. ay.

M<sup>r</sup> <sup>Madison</sup> in order to prevent doubts ["wheth" stricken  
<sup>whether</sup> out] resignations could be made by Senators, or whether  
they could refuse to accept, moved to ["insert" stricken  
<sup>strike out the words</sup> out] <sup>& insert</sup> after ["the" stricken out] "vacancies". <sup>or otherwise</sup> the words "hap-  
pening by refusals to accept, resignations. ["&c" stricken  
<sup>may be supplied by the Legislature of the State in ["which" stricken out] the representa-  
tion of which such vacancies shall happen, or by the Executive thereof until the next meeting of  
the Legislature</sup> out]

M<sup>r</sup> Gov<sup>r</sup> Morris this is absolutely necessary. otherwise, as  
members chosen into the Senate are disqualified from being  
appointed to any office by sect. 9. of this art: it will be in  
the power of a Legislature by appointing a man a Senator  
ag<sup>st</sup> his consent, to deprive the U. S. of his services.

The motion of M<sup>r</sup> <sup>Madison</sup> was agreed to nem. con.

M<sup>r</sup> Randolph ["moved" stricken out] called for a division  
of the Section, so as to leave a distinct question on the last  
words, "each ["State" stricken out] <sup>member</sup> shall have one vote".  
He wished this last sentence to be postponed until the recon-  
sideration should have taken place on sect. 5. Art. IV. con-  
cerning money bills. If that section should not be reinstated  
his plan would be to vary the representation in the Senate.

M<sup>r</sup> Strong concurred in M<sup>r</sup> Randolphs ideas on this point

M<sup>r</sup> Read did not consider the section as to money bills of  
any advantage to the larger States and had voted for striking  
it out as <sup>being</sup> <sup>viewed</sup> in the same light by the larger States. If  
it was considered by them as of any value, and as a condition  
of the equality of votes in the Senate, he had no objection to  
its being re-instated.

M<sup>r</sup> Wilson—M<sup>r</sup> Elsworth & M<sup>r</sup> <sup>Madison</sup> <sup>no</sup> urged that it was  
of <sup>no</sup> advantage to the larger States. and that it might be a



dangerous source of contention between the two Houses. All the principal powers of the Nat<sup>l</sup> Legislature had some relation <sup>to</sup> [“to some” stricken out] money.

Doc<sup>r</sup> Franklin, considered the two clauses, the originating of money bills, and the equality of votes in the Senate, as essentially connected by the compromise which had been agreed to.

Col. Mason said this was not the <sup>time for</sup> [“place to” stricken out] discussing this point. When the originating of money bills shall be reconsidered, he thought it could be demonstrated that it was of essential importance to restrain the right to the House of Representatives the immediate choice of the people.

M<sup>r</sup> Williamson. The State of N. C. had agreed to an equality in the Senate, merely in consideration that money bills should be confined to the other House: and [“that” stricken out] he was surprised to see the smaller States forsaking the condition on which they had <sup>received</sup> their equality.

Question on the Section 1. down to the last sentence

N. H. ay. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no\* Del. ay. M<sup>d</sup> <sup>Virg<sup>a</sup> ay</sup> ay. <sup>^</sup>  
N. C. no. S. C. div<sup>d</sup> Geo. ay.

M<sup>r</sup> Randolph moved that the last sentence “each <sup>member</sup> [“State” stricken out] shall have one vote.” be postponed

It was observed that this could not be necessary; as in case the section as to originating bills should not be reinstated, and a revision of the Constitution should ensue, it w<sup>d</sup> still be proper that the members should <sup>vote</sup> per capita. A postponement of the preceding sentence allowing to each State 2 members w<sup>d</sup> <sup>been more proper.</sup> have <sup>^</sup>

M<sup>r</sup> Mason, did not mean to propose a change of this mode

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\* In the printed Journal Pennsylvania. ay.

of voting per capita in any event. But as there might be other modes proposed, he saw no impropriety in postponing the sentence. Each State may have two members,<sup>and</sup> yet may have <sup>unequal</sup> ["different" stricken out] votes. He said that unless <sup>exclusive</sup> the originating money bills should be restored to the House of Representatives, he should, not from obstinacy, but duty and conscience, oppose throughout the equality of Representation in the Senate.

Mr Gov<sup>r</sup> Morris. Such declarations were he supposed, addressed to the smaller States in order to alarm them for their equality in the Senate, and induce them ag<sup>st</sup> their judgments, to concur in restoring the section concerning money bills. He would declare in his turn that as he saw no prospect of amending the Constitution of the Senate <sup>relating to money bills</sup> & considered the Section <sup>as</sup> intrinsically had <sup>^</sup> ["he was determined whatever the fate of" stricken out] he would adhere to the section establishing the equality at all events.

Mr Wilson. It seems to have been supposed by some that the section concerning money bills is desirable to the large States. The fact was that two of those States [P<sup>a</sup> & V<sup>a</sup>] had uniformly voted ag<sup>st</sup> it without reference to any other part of the system.

Mr Randolph, urged as Col. Mason had done that the sentence under consideration was connected with that relating to money <sup>bills</sup> <sup>^</sup>, and might possibly be affected by the result of the motion for reconsidering the latter. That the postponement was therefore <sup>not</sup> <sup>^</sup> improper.

Question for postponing "each ["State" stricken out] <sup>member</sup> <sup>^</sup> shall have one vote."

N. H. div<sup>d</sup> Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. no.

The words were then agreed to as part of the section.

Mr Randolph then gave notice that he should move to

reconsider this whole Sect: 1. Art. V. as connected with the 5. Sect. art. IV.<sup>as to</sup> which he had already given such notice.

Art. V. sect. 2<sup>d</sup> taken up.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to insert after the words [“after” stricken out] “immediately after”, the following “they shall be assembled in consequence of” which was agreed to nem. con. as was then the whole sect. 2.

Art: V. sect. 3. taken up.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to insert 14 instead of 4 years citizenship as a qualification for Senators; urging the danger of admitting strangers into our public Councils. M<sup>r</sup> Pinkney 2<sup>ds</sup> him

M<sup>r</sup> Elsworth. was opposed to the motion as discouraging meritorious aliens from emigrating to this Country.

M<sup>r</sup> Pinkney. As the Senate is to have the power of making treaties & managing our foreign affairs, there is peculiar danger and impropriety in opening its door to those who have foreign attachments. He quoted the jealousy of the Athenians on this subject who made it death for any stranger to intrude his voice into their [“their” stricken out] legislative proceedings.

Col. Mason highly approved of the policy of the motion. Were it not that many not natives of this Country had acquired great merit during the revolution, he should be for restraining the eligibility into the Senate, to natives.

M<sup>r</sup> Madison was not averse to some restrictions on this subject; but could never agree to the proposed amendment. He thought any restriction, <sup>however</sup> in the Constitution unnecessary, and improper. unnecessary; because the Nat<sup>l</sup> Legisl<sup>re</sup> is to have the right of regulating naturalization, and can [“require” stricken out] by virtue thereof fix <sup>different</sup> [“any” stricken out]

periods of residence <sup>as</sup> [“they may chuse as a” stricken out]  
 conditions of enjoying different privileges of Citizenship:  
 Improper; because it will give a <sup>[“dishonest” erased]</sup> tincture of illiberality to the  
 Constitution: because it will put it out of the power of the <sup>Nat<sup>l</sup></sup> the  
 Legislature even by special acts of naturalization to con-  
 fer the full rank of Citizens [“to” stricken out] <sup>on</sup> meritorious  
 strangers & because it will discourage the most desirable  
 class of people from emigrating to the U. S. Should the pro-  
 posed Constitution have the intended effect of giving stability  
 & reputation to our Gov<sup>ts</sup> great numbers of respectable Euro-  
 peans; men who love liberty and wish to partake its bless-  
 ings, will be ready to transfer their fortunes hither. <sup>All such would feel the mortification of being marked with suspicious incapacitations though they</sup> He was  
<sup>s<sup>d</sup>. not covet the public honors</sup> not apprehensive that any dangerous number of strangers  
 would be appointed by the State Legislatures, if they were left  
 at liberty to do so: nor that foreign powers would make use  
 of strangers as instruments for their purposes. Their bribes  
 would be expended on men whose circumstances would rather  
 stifle than excite jealousy & watchfulness in the public.

M<sup>r</sup> Butler was decidedly opposed to the admission of for-  
 eigners without a long residence in the Country. They  
 bring with them, not only attachments to other Countries;  
 but ideas of Gov<sup>t</sup> so distinct from ours that in every point of  
 view they are dangerous. He acknowledged that if he him-  
 self had been called into public life with <sup>in</sup> [“out” stricken  
 out] a short time after his coming to America, his foreign  
 habits opinions & attachments would have rendered him an  
 improper agent in public affairs. He mentioned the great  
 strictness observed in Great Britain on this subject.

Doc<sup>t</sup> Franklin was not ag<sup>st</sup> a reasonable time, but should  
 be very sorry to see any thing like illiberality inserted in the  
 Constitution. The people in Europe are friendly to this

Country. Even in the Country with which we have been lately at war, We have now & had during the war, a great many friends [<sup>not only among the people at large but</sup> "even" stricken out] in both Houses of Parliament. In every other Country in Europe all the people are our friends. We found in the Course of the Revolution, that many strangers served us faithfully— and that many natives took part ag<sup>st</sup> their Country. When foreigners after looking about for some other Country in which they can obtain more happiness, give a preference to ours, it is a proof of attachment which ought to excite our confidence & affection.

Mr Randolph did not know but ["that" stricken out] it might be problematical whether emigrations to this Country were on the whole useful or not: but he could never agree to the motion for disabling them for 14 years to ["receive the" stricken out] participate in the public honours. He reminded the Convention of the language held by our patriots during the Revolution, and the principles laid down in all our American Constitutions. Many foreigners may have fixed their fortunes among us under the faith of these invitations. All persons under this description ["s" stricken out] with all others who would be affected by such a regulation, would enlist themselves under the banners of hostility to the proposed System. He would go as far as seven years, but no further.

Mr Wilson said he rose with feelings which were perhaps peculiar; mentioning the circumstance of his not being a native, and the possibility, if the ideas of some gentlemen should be pursued, of his being incapacitated from holding a place under the very Constitution which he had shared in the trust of making. He remarked the illiberal complexion



which the motion would give to the System, & the effect which a good system would have in inviting meritorious foreigners among us, and the discouragement [“which would result” stricken out] <sup>& mortification they must feel</sup> from the degrading discrimination, [“which” stricken out] now proposed. He had himself experienced this mortification. On his removal into Maryland, he found himself, from defect of residence, under certain <sup>legal</sup> incapacities, which never ceased to produce chagrin, though he assuredly did not desire & would not have accepted the offices to which they related. To be appointed to a place may be matter of <sup>in-</sup> difference. To be incapable of being appointed, is a circumstance grating, and mortifying.

M<sup>r</sup> Gov<sup>t</sup> Morris. The lesson we are taught is that we should be governed as much by our reason, and as little by our feelings as possible. What is the language of Reason on this subject? That we should not be polite at the expense of prudence. There was a moderation in all things. It is said that some tribes of Indians, carried their hospitality so far as to offer to strangers their wives and daughters. Was this a proper model for us? He would admit them to his house, he would [“let” stricken out] invite them to his table, would provide for them comfortable lodgings; but would not carry the complaisance so far as, to bed them with his wife. He would let them worship at the same altar, [“but” written upon “and”] did not choose to make Priests of them. He [“mention” stricken out] ran over the privileges which emigrants would enjoy among us, though they should be deprived of that of being eligible to the great offices of Government; observing that they exceeded the privileges allowed to foreigners in any part of the world; and that as every Society from a great nation down to a club had the right of



declaring the conditions on which new members should be admitted, there could be no room for complaint. As to those philosophical gentlemen, those Citizens of the World as they called themselves, He owned he did not wish to see any of them in our public Councils. He would not trust them. The men who can shake off their attachments to their own Country can never love any other. These attachments are the wholesome prejudices which uphold all Governments, Admit a Frenchman into your Senate, and he will study to increase the commerce of France: An Englishman, he will feel an equal bias in favor of that of England. It has been said that The Legislatures will not chuse foreigners, at least improper ones. There was no knowing what Legislatures would do. Some appointments made by them, proved that every thing ought to be apprehended from the cabals practised on such occasions. He mentioned the case of <sup>a</sup> foreigner who left this State in disgrace, and worked himself into an appointment from <sup>another</sup> ["Georgia" stricken out] to Congress.

Question on the motion of M<sup>r</sup> Gov<sup>r</sup> Morris to insert 14 in place of 4 years

N. H. ay. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. ay.

On 13 years, moved M<sup>r</sup> Gov<sup>r</sup> Morris

N. H. ay. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. ay.

On 10 years moved by Gen<sup>l</sup> Pinkney

N. H. ay. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. <sup>ay</sup> ["no" stricken out]. Geo. ["no" stricken out] ay.

D<sup>r</sup> Franklin reminded the Convention that it did not follow from an omission to insert the restriction in the Constitution

that ["foreigners would" stricken out] the persons in question w<sup>d</sup> be actually chosen into the Legislature.

M<sup>r</sup> Rutledge. 7 years of Citizenship ["ought to be" stricken out] have been required for the House of Representatives. Surely a longer time is requisite for the Senate, which will have more power.

M<sup>r</sup> Williamson. It is more necessary to guard the Senate in this case than the other House. Bribery & Cabal can be more easily practised in the choice of the Senate ["th" stricken out] which is to be made by the Legislatures composed of a few men, than of the House of Represent<sup>s</sup> ["which" stricken out] <sup>who</sup> will be chosen by the people.

M<sup>r</sup> Randolph will agree to 9 years with the expectation that it will be reduced to seven if M<sup>r</sup> Wilson's motion to reconsider the vote fixing 7 years for the House of Representatives should produce a reduction of that period.

On a question for 9 years

N. H. ay. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. div<sup>d</sup> S. C. ay. Geo. ay.

The term "Resident" was struck out, & "inhabitant" inserted nem. con.

Art. V Sect. 3. as amended agreed to nem. con.

Sect. 4. agreed to nem. con.

Art. VI. sect. 1. taken up.

<sup>Madison</sup> M<sup>r</sup> — & M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out "each House" to insert "the House of Representatives"; & ["to alter so as to restrain not to extend to the Senate;" stricken out] <sup>of the Legislatures</sup> the right to regulate the times & places &c. in ["that case" stricken out] <sup>the election of Senators</sup> being involved in the right of appointing <sup>them</sup> <sub>^</sub>, which was ["ag<sup>d</sup> to" stricken out] <sup>disagreed to.</sup>

Division of the question being called, it was taken on the first part down to <sup>their</sup> "but provisions concerning &c"

The first part was agreed to nem. con.

Mr Pinkney & Mr Rutledge moved to strike out the remaining part viz but <sup>their</sup> provisions concerning them may at any time be altered by the Legislature of the United States." The States they contended could & must be relied on in such cases.

Mr Ghorum. It would be as improper take this power from the Nat<sup>l</sup> Legislature, as to Restrain the British Parliament from regulating the circumstances of elections, leaving this business to the Counties themselves—

Mr <sup>Madison</sup>. The necessity of a Gen<sup>l</sup> Gov<sup>t</sup> supposes that the State Legislatures will sometimes fail or refuse to consult the common interest at the expense of their local conveniency or prejudices. The policy of referring the appointment of the House of Representatives to the people ["supposed that" stricken out] and not to the Legislatures of the States, supposes that the result will be somewhat influenced by the mode, This view of the question seems to decide that the Legislatures of the States ought not to have the uncontrouled right of regulating the times places & manner of <sup>holding</sup> elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot or vivâ voce, should assemble at this place or that place; should be divided into districts or all meet at one place, sh<sup>d</sup> all vote for all the representatives; or all in a district vote for a number allotted to the district; these & many other points would depend on the Legislatures. and might materially affect the appointments. ["and" <sup>the State Legislatures</sup> stricken out] Whenever ["they" stricken out] had a favorite measure to carry, they would take care so to mould their

regulations as to favor the candidates they wished to succeed. Besides, the inequality of the Representation in the Legislatures of particular States, would produce a like inequality in their representation in the Nat<sup>l</sup> Legislature, as it was presumable that the Counties having the power in the former case would secure it to themselves in the latter. What danger could there be in ["referring" stricken out] giving a controuling power to the Nat<sup>l</sup> Legislature? Of whom was it to consist? 1. of a Senate to be chosen by the State Legislatures. If the latter therefore could be trusted, their representatives could not be dangerous. 2. of Representatives elected by the same <sup>people</sup> who elect the State Legislatures; surely then if confidence is due to the latter, it must be due to the former. It seemed as improper in principle— though ["t" stricken out] it might be less inconvenient in practice, ["to give this influential" stricken out] <sup>to give to the State Legislatures this great</sup> authority over the election of the Representatives of the people in the Gen<sup>l</sup> Legislature, as it would be to give to the latter a like power over the election of ["the former" stricken out] their Representatives in the State Legislatures.

M<sup>r</sup> King. If this power be not given to the Nat<sup>l</sup> Legislature, their right of judging of the returns of their members may be frustrated. No probability has been suggested of its being abused by them. Altho this scheme of erecting the Gen<sup>l</sup> Gov<sup>t</sup> on the authority of the State Legislatures has <sup>been</sup> fatal to the federal establishment, it would seem as if many gentlemen, still foster the dangerous idea.

M<sup>r</sup> Gov<sup>r</sup> Morris—observed that the States might make false returns and ["fail to" stricken out] <sup>then</sup> make no provisions for new elections

Mr Sherman did not know but it might be best to retain the clause, though he had himself sufficient confidence in the State Legislatures.

The motion of Mr. P. & Mr. R. did not prevail  
The word "respectively" was inserted after the word "State"

On the motion of Mr Read the word "their" was struck out, & "regulations in such cases" inserted in place of "pro-  
the clause then reading—"but regulations, in each of the foregoing cases may at any time, be made  
visions concerning them". This was meant to give the Nat<sup>l</sup>  
or altered by the Legislature of the U. S.  
Legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether.

Art. VI. Sect. 1— as thus amended was agreed to nem. con.

Adjourned.

Friday Aug<sup>st</sup> 10. in Convention

Art. VI. sect. 2. taken up.

Mr Pinkney— The Committee as he had conceived were instructed to report the proper qualifications of property for the members of the Nat<sup>l</sup> Legislature; ["and" stricken out] instead of which they have referred the task to the Nat<sup>l</sup> Legislature itself. Should it be left on this footing, the first Legislature will meet without any particular qualifications of property; and if it should happen to consist of rich men they might fix such such qualifications as may be too favorable to the rich; if of poor men, an opposite extreme might be run into. He was opposed to the establishment of an undue aristocratic influence in the Constitution but he thought it essential that the members of the Legislature, the Executive, and the Judges— should be possessed of competent property to make them independent & respectable. It was prudent when such great powers were to be trusted to ["add" stricken out] connect the tie of property with that



of reputation in securing a faithful administration. The Legislature would have the fate of the Nation put into their hands. The President would also have a <sup>very</sup> great influence on it. The Judges would have not only important causes between Citizen & Citizen but also where foreigners are concerned. They will even be the Umpires between the U. States and individual States as well as between one State & another. Were he to fix the quantum of property which should ["prevail" stricken out] be required, he should not think of less than one hundred thousand dollars for the President, half of that sum for each of the Judges, and in like proportion for the members of the Nat<sup>l</sup> Legislature. He would however leave the sums blank. His motion was that the President of the U. S. the Judges, and members of the Legislature should be required to swear that they were respectively possessed of a clear unincumbered Estate to the amount of ——— in the case of the President, &c &c—

M<sup>r</sup> Rutledge seconded the motion; observing, that the Committee had reported no qualifications because they could not agree on any among themselves, being embarrassed by the danger on <sup>one</sup> side of displeasing the people by making them <sup>high</sup>, and on the other of rendering them nugatory by making them low.

M<sup>r</sup> Elsworth. The different circumstances of different parts of the U. S. and the <sup>probable</sup> difference between the present and future circumstances of the whole, render it improper to have either ["a" stricken out] uniform or fixed qualifications. Make them so high as to be useful in the S. States, and they will be inapplicable to the E. States. Suit them to the latter, and they will serve no purpose in the former. In like manner what may be accommodated <sup>to</sup> the existing State



of things among us, may be very inconvenient in some future state of them. He thought for these reasons that it was better to leave this matter to the Legislative discretion than to attempt a provision for it in the Constitution.

Doct<sup>r</sup> Franklin expressed his dislike of every thing that tended to debase the spirit of the common people. If honesty was often the companion of wealth, and if poverty was exposed to peculiar ["to" stricken out] temptation, it was not less true that the possessi["o" written upon "d"]n of property increased the desire of more property— Some of the greatest rogues he was ever acquainted with, were the richest rogues. We should remember the character which the Scripture requires in Rulers, that they should be men hating covetousness— This Constitution will be much read and attended to in Europe, and if ["such a clause" stricken out] it should betray a great partiality to the rich— will not only hurt us in the esteem of the most liberal and enlightened men there, but discourage the common people from removing to this Country.

The Motion of M<sup>r</sup> Pinkney was rejected by so general a no, that the States were not called.

M<sup>r</sup> <sup>Madison</sup> was opposed to the Section as vesting an improper & dangerous power in the Legislature. The qualifications of electors and elected were fundamental articles in a Republican Gov<sup>t</sup> and ought to be fixed by the Constitution. If the Legislature could regulate those of either, ["they can" stricken out] it can by degrees subvert the Constitution. A Republic may be conve["r" written upon "n"]ted into an aristocracy or oligarchy as well by limiting the number capable of being elected, as the number authorised to elect. In all cases where the representatives of the people

will have a personal interest distinct from that of their Constituents, there was the same reason for being jealous of them, as there was for relying on them with full confidence, when they had a common interest. This was one of the former cases. It was as improper as to allow them to fix their own wages, or their own privileges. It was a power also, which might <sup>be made</sup> subservient to the views of one faction ag<sup>st</sup> another. Qualifications founded on artificial distinctions may be devised, [<sup>by the stronger in order to keep out</sup> "which may exclude obnoxious" stricken out] partizans of ["the opposite" stricken out] a weaker faction.

M<sup>r</sup> Elsworth, admitted that the power was not unexceptionable; ["but" written upon "that"] he could not view it as dangerous. Such a power with regard to the electors would be dangerous because it would be much more liable to abuse.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out "with regard to property" in order to leave the Legislature entirely at large.

M<sup>r</sup> Williamson. This could surely never be admitted. Should a majority of the Legislature be composed of any particular description of men, of lawyers for example, which ["would be no" stricken out] is no improbable supposition, the future elections might be secured to their own body.

M<sup>r</sup> Madison observed that the British Parliam<sup>t</sup> possessed the power of regulating the qualifications both of the electors, and the elected; and the abuse they had made of it was a lesson worthy of our attention. They had made the changes in both cases subservient to their own views, or to the views of ["party" stricken out] political or Religious parties.

Question o["n" written upon "f"] the motion to strike out with regard to property

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no.  
V<sup>a</sup> no. N. C. no. S. C. no. Geo- ay.

M<sup>r</sup> Rutledge was opposed to leaving the power to the Legislature- He proposed that the qualifications should be the same as for members of the State Legislatures.

M<sup>r</sup> Wilson thought it would be best on the whole to let the Section go out. A uniform rule would probably be never fixed by the Legislature, and this particular power would constructively exclude every other power of regulating qualifications-

On the question for agreeing to Art- VI- sect- 2<sup>d</sup>

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. M<sup>d</sup> no. V<sup>a</sup> no. <sup>N. C. no</sup>  
S. C. no. Geo. ay-

["On motion of M<sup>r</sup> Wilson to assign" stricken out]

On Motion of M<sup>r</sup> Wilson to ["assign Monday for" stricken out] reconsider["ing" stricken out] Art: IV. sect. 2. so as to restore 3 in place of seven years ["of" written upon "as"] citizenship as a qualification for being elected into the House of Represent<sup>s</sup>

N. H- no. Mas- no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. no.

Monday next was then assigned for the reconsideration: all the States being ay- except Mass<sup>s</sup>. & Georgia

Art: VI. sect. 3. taken up.

M<sup>r</sup> Ghornum contended that less than a Majority <sup>in each House</sup> should be made of Quorum, otherwise great delay might happen in business, and great inconvenience from the future increase of numbers.

M<sup>r</sup> Mercer was also for less than a majority. So great a number will put it in the power of ["a" written upon "of"] few by seceding at a critical moment to introduce convul-

\* In the printed Journal Delaware did not vote.

sions, and endanger the Govern<sup>t</sup> Examples of secession have already happened in some of the States. He was for leaving it to the Legislature to fix the Quorum, as in Great Britain, where the requisite number is small & no inconveniency has <sup>been</sup> experienced.

Col. Mason. This is a valuable & necessary part of the plan. In this extended Country, embracing so great a diversity of interests, it would be dangerous to the distant parts to allow a small number of members of the two Houses to make laws. The Central States could always take care to be on the Spot and by meeting earlier than the distant ones, or wearying their patience, and outstaying them, could carry such measures as they pleased. He admitted that inconveniences might spring from the secession of <sup>a</sup> small number: But he had also known good produced by an apprehension of it. He had known a paper emission prevented by that cause in Virginia. He thought the Constitution as now moulded was founded on sound principles, and was disposed to put into it extensive powers. At the same time he wished to guard ag<sup>t</sup> abuses as much as possible. If the Legislature should be able to reduce the number at all, it might reduce it as low as it & the U. States might be governed by <sup>a</sup> Juncto-pleased <sup>^</sup> A majority of the number which had been agreed on, was so few that he feared it would be made an objection ag<sup>t</sup> the plan.

M<sup>r</sup> King admitted there might be some danger of giving an advantage to the Central States; but was of opinion that the public inconveniency on the other side was more to be dreaded.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to fix the quorum at 33 members in the H. of Rep<sup>s</sup> & 14 in the Senate. This is a majority of the present number, and will be a bar to the Legislature: fix the

number low and they will generally attend knowing that advantage may be taken of their absence. the Secession of a small number ought not to be suffered to break a quorum. Such events in the States may have been of little consequence. In the national Councils, they may be fatal. Besides other mischiefs, if a few can break up a quorum, they may sieze a moment whe["n" written upon "h"] a particular <sup>part</sup> of the Continent may be in need of immediate aid, to extort, by threatening a secession, some unjust & selfish measure.

M<sup>r</sup> Mercer 2<sup>d</sup> the motion

M<sup>r</sup> King said he had just prepared a<sup>x</sup> motion which instead of fixi["n" written upon "d"]g the numbers proposed by M<sup>r</sup> Gov<sup>r</sup> Morris as Quorums, made those the lowest numbers, leaving the Legislature at liberty to increase them or not. He thought the future increase of members would render a majority of the whole extremely cumbersome.

M<sup>r</sup> Mercer agreed to substitute M<sup>r</sup> Kings motion in place of M<sup>r</sup> Morris's.

M<sup>r</sup> Elsworth was opposed to it. It would be a pleasing ground of confidence to the people that no law or burden could be imposed on them, by a few men. He reminded the movers that the Constitution proposed to give such a discretion with regard to the number of Representatives that a very inconvenient number was not to be apprehended. The inconveniency of secessions may be guarded ag<sup>st</sup> by giving to each House an authority to require the attendance of absent members.

M<sup>r</sup> Wilson concurred in the sentiments of M<sup>r</sup> Elsworth.

M<sup>r</sup> Gerry seemed to think that some further precautions than merely fixing the quorum might be necessary. He observed that as 17 w<sup>d</sup> be a majority of a quorum of 33, and

8 of 14, questions might by possibility b["e" written upon "y"] carried in the H. of Rep<sup>s</sup> by 2 large States, and in the Senate by the same States with the aid of two small ones.— He proposed that the number for a quorum in the H. of Rep<sup>s</sup> should ["n" written upon "be"]<sup>nor be less than 33</sup>ot exceed 50 . leaving the intermediate discretion to the Legislature.

M<sup>r</sup> King. as the quorum could not be altered with<sup>t</sup> the concurrence of the President by less than  $\frac{2}{3}$  of each House, he th["ou" written upon "at"]ght there could be no danger in trusting the Legislature.

M<sup>r</sup> Carrol this will be no security ag<sup>st</sup> a continuance of the quorums at 33 & 14. when they ought to be increased.

On question on M<sup>r</sup> Kings motion <sup>X</sup>that not less than 33 in the H. of Rep<sup>s</sup>. ["n" written upon "&"]or less than 14 in the Senate sh<sup>d</sup>. constitute a Quorum, which may be increased by a law, on additions to members in either House.

N. H. no. Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Randolph & M<sup>r</sup> <sup>Madison</sup> <sup>may</sup> move<sup>^</sup> to add to the end of Art. VI Sect 3, "and be authorized to compel the attendance of absent members in such manner & under such penalties as each House may provide." <sup>by all except Pen<sup>a</sup>—which was divided</sup> Agreed to <sup>^</sup>["nem. con." stricken out]

Art: VI. Sect. 3. Agreed to as amended Nem. con.

Sect. 4. } Agreed to nem. con.  
Sect. 5. }

M<sup>r</sup> <sup>Madison</sup> observed that the right of expulsion (Art. VI. Sect. 6.) was too important to be exercised by a bare majority of a quorum: and in emergencies of faction["s contentions" stricken out] might be dangerously abused. He moved that "with the concurrence of  $\frac{2}{3}$ " might be inserted between may & expel.

M<sup>r</sup> Randolph & M<sup>r</sup> Mason approved the idea.



Mr Gov<sup>r</sup> Morris. This power may be safely trusted to a majority. To require more may produce ["s" stricken out] abuses on the side of the minority. A few men [<sup>from</sup> "for" stricken out] factious motives may keep in a member who ought to be expelled.

Mr Carrol thought that the concurrence of  $\frac{2}{3}$  at least ought to be required.

On the question for requiring  $\frac{2}{3}$  ["in" written upon "to"] cases of expelling a member.

N. H. ay- Mas. ay. C<sup>t</sup> ay- N. J- ay. P<sup>a</sup> div<sup>d</sup> Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N- C. ay- S. C. ay. Geo. ay.

Art. VI- Sect- 6- as thus amended agreed to nem. con.

Art: VI. Sect. 7. taken up.

Mr Gov<sup>r</sup> Morris urged that if the yeas & nays were proper at all any individual ought to be authorized to call for them: and moved an amendment to that effect.—The small States may otherwise <sup>be</sup> <sup>[illegible word stricken out]</sup> under a disadvantage, and find it difficult. ["having not  $\frac{1}{3}$  of" stricken out] to get a concurrence of  $\frac{1}{3}$

Mr Randolph 2<sup>ded</sup> y<sup>e</sup> motion.

Mr Sherman had rather strike out the yeas & nays altogether. they never have done any good, and have done much mischief. They are not proper ["unless" stricken out] <sup>as</sup> the reasons governing the voter never appear along with them.

Mr Elsworth was of the same opinion

Col. Mason liked the Section as it stood. it was a middle way between two extremes.

Mr Ghorum was opposed to the motion for allowing a single member to call the yeas & nays, and recited the abuses of it, in Mass<sup>ts</sup> 1 in stuffing the journals with them on frivolous occasions. 2 in misleading the people who never know the reasons determining the votes.

The motion for allowing a single member to call the yeas & nays was disag<sup>d</sup> to nem- con-

Mr Carrol & Mr Randolph moved [<sup>Here insert the motion at bottom of page\*</sup> "to allow any member to enter his dissent" stricken out]."

Mr Gov<sup>r</sup> Morris & Mr Wilson observed that if the minority were to have a right to enter their votes & reasons, the other side would have a right to complain, if it were not extended to them: & to allow it to both, would fill the Journals, like the records of a Court, with ["pleas" stricken out] replications, rejoinders &c-

Question on Mr Carrols motion to allow ["a" written upon "one"] member to <sup>enter his</sup> dissent

N. H- no. Mas. no. Con<sup>t</sup> no. N. J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. ay. Geo. no.

["Mr Gerry moved to strike out 'when it shall be acting in its legislative capacity' in order to extend the" stricken out]

Mr Gerry moved to strike out the words "when it shall be acting in its legislative capacity" in order to extend the provision to the Senate when exercising its peculiar authorities. — [It was thought by others that provision should be made with respect to these when that part came under consideration which proposed to vest those <sup>additional</sup> authorities in the Senate.]

On this question for striking out the words "when acting in its Legislative capacity"

N. H. div<sup>d</sup> Mas ay. C<sup>t</sup> no. N. J. no. Pa<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay- N. C. ay. S. C- ay. Geo. ay—

Adjourned

\* ["It was moved & 2<sup>d</sup>ed," stricken out] to strike out the words "each House" and to insert the words "the House of Representatives" in sect- 7. art- 6. and to add to the Section the words "and any member of the Senate shall be at liberty to enter his dissent"

Saturday Aug<sup>t</sup>. 11. in Convention

M<sup>r</sup> Madison & M<sup>r</sup> Rutledge moved<sup>x</sup> "that each House shall<sup>shall</sup> keep a journal of its proceeding, & publish the same from time to time; except such of the proceedings of the Senate, when acting not in its Legislative capacity as may<sup>part</sup> ["in the judgment of" stricken out] that House<sup>be judged by</sup> to require secrecy."

M<sup>r</sup> Mercer. This implies that other powers than legislative will be given to the Senate which he hoped would not be given.

M<sup>r</sup> Madison & M<sup>r</sup> R's motion<sup>x</sup> was disag<sup>d</sup> to by all the States except Virg<sup>a</sup>.

M<sup>r</sup> Gerry & M<sup>r</sup> Sharman moved to insert after the words "publish them" the following "except such as relate to treaties & military operations." Their object was to give each House a discretion in such cases.—On this question

N. H- no. Mas- ay. C<sup>t</sup> ay. N- J. no. P<sup>a</sup> no. Del- no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Elsworth. As the clause is objectionable in so many shapes, it may as well be struck out altogether. The Legislature will not fail to publish their proceedings from time to time—<sup>people</sup> The will call for it i["f" written upon "t"] it should be improperly omitted.

M<sup>r</sup> Wilson thought the ["omission" stricken out] expunging of the clause would be very improper. The people have a right to know what their Agents are doing or have done, and it should not be in the option of the Legislature to conceal their proceedings. Besides as this is a clause in the existing confederation, the not retaining it would furnish the adversaries of the reform with a pretext by which weak & suspicious minds may be easily misled.

M<sup>r</sup> Mason thought it would give a just alarm to the people, to make a conclave of their Legislature.

Mr Sherman thought the Legislature might be trusted in this case if in any.

Question on 1<sup>st</sup> part of the Section, down to "publish them" inclusive: Agreed to nem. con.

Question on the words to follow, to wit except such parts thereof as may in their Judgment require secrecy." N. H. div<sup>d</sup> Mas. ay. C<sup>t</sup> ay. N. J- ay. P<sup>a</sup> no. Del- no. M<sup>d</sup> no. V<sup>a</sup> ay- N. C. ay. S. C. no. Geo. ay-

The remaining part as to yeas and nays.—agreed to nem. con.

Art VI. sect. 8. taken up.

Mr King remarked that the section authorized the 2 Houses to adjourn to a new place. He thought this inconvenient. The mutability of place had dishonored the federal Gov<sup>t</sup> and would require as strong a cure as we could devise. He thought a law at least should be <sup>made</sup> necessary to a removal of the Seat of Gov<sup>t</sup>.

Mr <sup>Madison</sup> viewed the subject in the same light, and joined with Mr King in a motion requiring a law.

Mr Govern<sup>r</sup> Morris proposed the additional alteration ["by" written upon "of"] inserting the words "during the Session" &c".

Mr Spaight. <sup>The present</sup> this will fix the seat of Gov<sup>t</sup> at N. Y. Congress will convene them there in the first instance, and they will never be able to remove; especially if the Presid<sup>t</sup> should be Northern Man.

Mr Gov<sup>r</sup> <sup>Morris.</sup> such a distrust is inconsistent with all Gov<sup>t</sup>

Mr <sup>Madison</sup> supposed that a central place for the Seat of Gov<sup>t</sup> was so just and w<sup>d</sup> be so much insisted on by the H. of Representatives, that though a law should <sup>be made requisite for</sup> ["be required of" stricken out] the purpose, it could & would be ["at"

written upon "ob"]tained. The necessity of a central residence of the Gov<sup>t</sup> w<sup>d</sup> be much ["more necess" stricken out] greater under the new than old Gov<sup>t</sup>. The members of the Gov<sup>t</sup> w<sup>d</sup> be more numerous. They would be taken more from the interior parts of the States: ["they" written upon "and"] w<sup>d</sup> not, like members of Cong<sup>s</sup> <sup>y<sup>e</sup> present</sup> come so often from the distant States by water. As the powers & objects of the new Gov<sup>t</sup> would be far greater <sup>y<sup>n</sup>, heretofore</sup>, more <sup>private</sup> individuals w<sup>d</sup> have business calling them to the seat of it, and it was more necessary that the Gov<sup>t</sup> should be in that position from which ["the" stricken out] <sup>equal</sup> it could contemplate with the most eye, and sympathize mo["st" written upon "re"] equally with, every part of the nation. These considerations he supposed would extort a removal even if a law were made necessary. But in order to quiet suspicions both within & without doors, it might not be amiss to authorize the 2 Houses by a concurrent vote to adjourn at their first meeting to the most proper place, and to require thereafter, the ["leave authority" stricken out] <sup>sanction</sup> of a law to their removal.

The motion was accordingly moulded into the following form: "the Legislature shall at their first assembling determine on a place at which their future sessions shall be held; neither House shall afterwards, during the session of the House of Reps. without the consent of the other, adjourn for more than three days, nor shall they adjourn to any other place than such as shall have been fixt by law."

Mr Gerry thought it would be wrong to let the Presid<sup>t</sup> check the will of the 2 Houses on this subject <sup>at all</sup>.

Mr Williamson supported the ideas of Mr Spaight

Mr Carrol was actuated by the same apprehensions

Mr Mercer. it will serve ["no" written upon "to"] purpose to require the ["Legisl<sup>re</sup> at" stricken out] two Houses at their first Meeting to fix on a place. They will never agree.

After some further expressions ["of" stricken out] from

others denoting an apprehension that the seat of Gov<sup>t</sup> might be continued at an improper place if a law should be made necessary to a removal, and <sup>["of Mr." stricken out] above stated with another</sup> the motion for recommitting the section <sup>had been</sup> ["which was" stricken out] negatived, the Section was left in the shape it ["now bears. see page" stricken out] which it was reported, as to this point. The words "during the session of the legislature were Out] <sup>5th</sup> prefixed to the section—and the last sentence "But this regulation ["&c" from struck out" stricken out] shall not extend to the Senate when it shall exercise the powers mentioned in the article" struck struck out. The 8<sup>th</sup> section as amended was then agreed to.

Mr Randolph moved according to notice to reconsider Art: IV: Sect. 5. concerning money-bills which had been struck out. He argued ["1. that this exclusive privilege in behalf of the House of Representatives would render the plan acceptable" stricken out]. ["1" written upon "2"]. that he had not wished for this privilege whilst a proportional Representation in the Senate was in contemplation. but since an equality had been fixed in that house, the large States would require this compensation at least. ["2" written upon "3"]. that it would make the plan more acceptable to the people, because they will consider the Senate as the more aristocratic body, and will expect that the usual guards ag<sup>st</sup> its influence ["will" stricken out] be provided according to the example in G. Britain. [<sup>3</sup>"4" stricken out]. the privilege will give some advantage to the House of Rep<sup>s</sup> if it extends to the originating only—but still more, if it restrains the Senate ["may" stricken out] <sup>from</sup> amend<sup>s</sup> ["4" written upon "5"]. he called on the smaller States to concur in the measure, as the condition by which alone the ["y were" stricken out] compromise had entitled them to an equal["i" written upon "1"]ty in the Senate. He signified that he should propose instead of the original Section, a clause specifying that the bills in question should be for the purpose of Revenue, in order to repel ["y<sup>e</sup>" written



upon "no"] objection ag<sup>st</sup> the extent of the words "raising money," which might happen incidentally, and that the Senate should not so amend or alter as to increase or diminish the sum; in order to obviate the inconveniences urged ag<sup>st</sup> a restriction of the Senate to a simple affirmative or negative.

Mr Williamson 2<sup>d</sup><sup>ed</sup> the motion

Mr Pinkney was sorry to oppose the opportunity gentlemen asked ["for" stricken out] to have the question again opened for discussion, but as he considered it a mere waste of time he could not bring himself to consent to it. He said that notwithstanding what had been said as to the compromise, he always considered this section as making no part of it. The rule of Representation in the 1<sup>st</sup> branch ["&" stricken out] was the <sup>true</sup> condition of that in the 2<sup>d</sup> branch.—Several others spoke for & ag<sup>st</sup> the reconsideration, but without going into the merits—on the Question to reconsider

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. div<sup>d</sup> Geo. ay.—Monday was then assigned—

Adj<sup>d</sup>

Monday. Aug<sup>st</sup> 13. In Convention

Art. IV. Sect. 2. reconsidered—

Mr Wilson & Mr Randolph moved to strike out "7 years" and insert "4 years," as the requisite term of Citizenship to qualify for the House of Rep<sup>s</sup>. Mr Wilson said it was very proper the electors should govern themselves by this consideration; but unnecessary & improper that the Constitution should chain them down to it.

Mr Gerry wished that in future the eligibility might be confined to Natives. Foreign powers will intermeddle in our affairs, and spare no expense to influence <sup>them</sup> . ["If" stricken out] Persons having foreign attachments will be <sup>sent among us &</sup> insinuated into our councils, ["and" stricken out] <sup>in order to</sup> be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services—He was not singular in these ideas. A great many of the most influential men in Mass<sup>ts</sup> reasoned in the same manner.

Mr Williamson moved to insert 9 years instead of seven. He wished this Country to acquire as fast as possible national habits. Wealthy emigrants do more harm by their luxurious examples, than good, by the money, they bring with them.

Col. Hamilton was in general ag<sup>st</sup> embarrassing the Gov<sup>t</sup> with minute restrictions. There was <sup>one</sup> on side the possible danger that had been suggested— on the other side, the advantage of encouraging foreigners was obvious & admitted. Persons in Europe of moderate fortunes will be fond of coming here where they will be on a level with the first Citizens. He moved that the section be so altered as to require merely Citizenship & inhabitancy. The right of determining the rule of naturalization will then leave a discretion to the Legislature on this subject which will answer every purpose.

Mr <sup>Madison</sup> seconded the motion. He wished to maintain the character of liberality which had been professed in ["<sup>all</sup>" stricken out] the Constitutions & publications of America. He wished to invite foreigners of merit & republican principles among us. America was indebted to emigration for her settlement & Prosperity. That part of America which had encouraged them most had advanced most rapidly in population, agriculture & the arts. There was a possible danger

he admitted that men with foreign predilections might obtain appointments but it was by no means probable that it would happen in any ["dangerous" stricken out] dangerous degree. For the same reason that they would be attached to their native Country, our own people w<sup>d</sup> prefer natives of this Country to them. Experience proved this to be the case. Instances were rare ["indeed" stricken out] of a foreigner being elected by the people within any short space after his coming among us— If bribery was to be practised by foreign powers, it would not be attempted among the electors, but among the elected; and among natives having full Confidence of the people not among strangers who would be regarded with a jealous eye.

M<sup>r</sup> Wilson. Cited Pennsylv<sup>a</sup> as a proof of the advantage of encouraging emigrations. It was perhaps the youngest [except Georgia] settlem<sup>t</sup> on the Atlantic; yet it was at least among the foremost in population & prosperity. He remarked that almost all the Gen<sup>l</sup> officers of Pen<sup>a</sup> line were foreigners. And no complaint had ever been made against their fidelity or merit. Three of her deputies to the Convention [M<sup>r</sup> R. Morris, M<sup>r</sup> Fitzsimmons & himself] were also not natives. He had no objection to Col. Hamiltons motion & would withdraw the one made by himself.

M<sup>r</sup> Butler was strenuous ag<sup>t</sup> admitting foreigners into our public Councils.

Question on Col. Hamilton's Motion

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

Question on M<sup>r</sup> Williamson's moution, to insert 9 years instead of seven.

N. H. ay. Mas<sup>ts</sup> no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N- C. no. S. C. ay. Geo. ay.

Mr Wilson's renewed [<sup>the</sup> "the" written upon "his"] motion for 4 years instead of 7. & on question

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. ["no" written upon "ay"] Geo. no.

Mr Gov<sup>r</sup> Morris moved to add ["a provi to" stricken out] <sup>to</sup> the end of the section [art IV. s. 2] a proviso that the limitation [<sup>of seven years</sup> "of time concern concerning time of citizenship &" stricken out] should not affect <sup>the rights of</sup> any person now a Citizen.

Mr. Mercer 2<sup>ded</sup> the motion. It was necessary he said to prevent a disfranchisement of persons who had become Citizens under the faith & according to — ["of" stricken out] the laws & Constitution from being on a level in all respects with natives.

Mr Rutledge. It might as well be said that all qualifications are disfranchisements and that to require the age of 25 years was a disfranchisement. The policy of the precaution was as great with regard to foreigners now Citizens; as to those who are to be naturalized in future.

Mr Sherman. The U. States have not invited foreigners nor pledged their faith that they should enjoy equal privileges with native Citizens. The Individual States alone have done this. The former therefore are at liberty to make any discriminations they may judge requisite.

Mr Ghorum. When foreigners are naturalized it w<sup>d</sup> seem as if they stand on an equal footing with natives. He doubted then the propriety of giving a retrospective force to the restriction.

[<sup>peculiarity of the</sup> "peculiarity of the" stricken out]  
peculiarity of the

Mr Madison animadverted on the doctrine of Mr Sharman. It was <sup>a subtilty</sup> ["an subtilty" stricken out] by which every national engagement might be evaded. [<sup>By parity of reason, Wherever</sup> "If" stricken out] our pub-

lie debts, or foreign treaties become inconvenient nothing<sup>more</sup> would be necessary to relieve us from them, than to ["abolish them by" stricken out] new model["ling" stricken out] the Constitution. It was said that the U. S.<sup>as such</sup> have not pledged their faith to the naturalized foreigners, & therefore are not bound. Be it so, & that the States alone are bound. Who are to form the New Constitution by which the condition of that class of citizens is to be made worse than the other class? Are not the States <sup>ye</sup> agents? will they not be the members of it? Did <sup>they</sup> not appoint this Convention? Are not they to ratify ["its" written upon "their"] proceedings? Will <sup>not</sup> the new Constitution be their Act? If the new Constitution then violates the faith pledged to any description of people will not the makers of <sup>it, will</sup> ["the States" stricken out] not the States, be the violators. To justify the doctrine ["then" stricken out] it must be said that the States can get rid of the obligation by revising the Constitution, though they could not <sup>do it</sup> by repealing the law ["from" stricken out]<sup>under</sup> which foreigners held their privileges. He considered this a matter of real importance. It would expose us to the reproaches of all those who should be affected by it, reproaches which w<sup>d</sup> soon be echoed from the other side of the Atlantic; and would enlist among the Adversaries of the reform a very considerable body of Citizens: ["and we" stricken out]<sup>We should moreover</sup> reduce["d" stricken out] every State to the <sup>it or of violating the faith pledged to a part of its citizens</sup> dilemma of rejecting

["M<sup>r</sup> Randolph remarked" stricken out] M<sup>r</sup> Gov<sup>r</sup> Morris considered the case of persons under 25 years, as very different from that of foreigners. No faith could be pleaded by the former in bar of the regulation. No assurance had ever been given that persons under that age should be in all cases

on a level with those above it. But with regard to foreigners among us, the faith had been pledged that they should enjoy the privileges of Citizens. If the restriction as to age had been confined to natives, & had left foreigners under 25 years, eligible in this case, the discrimination w<sup>d</sup> have been an equal injustice on the other side.

M<sup>r</sup> Pinkney remarked that the laws of the States had varied much the terms of naturalization in different parts of America; and <sup>contended</sup> that the U. S. could not be bound to respect them on such an occasion as the present. It was a sort of recurrence to first principles.

Col- Mason was struck not like [M<sup>r</sup> Madison], with the peculiarity, but the propriety of the doctrine of M<sup>r</sup> Sharman. The States have formed different qualifications themselves, for enjoying different rights of citizenship. Greater caution w<sup>d</sup> be necessary in the outset of the Gov<sup>t</sup> than afterwards. All the great objects w<sup>d</sup> be then provided for. Every thing would be then set in Motion. If persons among us attached to G- B. should work themselves into our Councils, a turn might be given to our affairs & particularly to our Commercial regulations which might have pernicious consequences. The ["P" stricken out] great Houses of British Merchants w["ould" written upon "ill"] spare no pains to insinuate the instruments of their views into the Gov<sup>t</sup>-

M<sup>r</sup> Wilson read the clause in the Constitution of Pen<sup>a</sup> giving to foreigners after two years residence all the rights whatsoever of Citizens, combined it with the Article of Confederation making the Citizens of one State Citizens of all, inferred the obligation Pen<sup>a</sup> was under to maintain the faith thus pledged to her citizens of foreign birth, and the just complaint which her failure would authorize:

He observed likewise  
of faith  
that the Princes & States of Europe would avail themselves of such breach to deter their subjects  
from emigrating to the U. S.



Mr Mercer enforced the same idea of a breach of faith.

Mr Baldwin could <sup>not</sup> enter into the force of the arguments ag<sup>st</sup> extending the disqualification to foreigners now Citizens. The ["mere" stricken out] discrimination of the place of birth, was not more objectionable than that of age which all had concurred in the propriety of.

Question on the proviso of Mr Gov<sup>r</sup> Morris in favor of foreigners now Citizens

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. no. Mary<sup>d</sup> ay. V<sup>a</sup> ay. N- C. no. S. C. no. Geo. no.

Mr Carrol moved to <sup>insert</sup> "5 years" instead "of seven," <sup>in</sup> section 2<sup>d</sup>. Art: IV

N- H. no. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> div<sup>d</sup> Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

The Section [Art IV. Sec. 2.] <sup>as formerly amended was</sup> then agreed to nem. con.

Mr Wilson moved that [in Art: V. sect. 3.] 9 years be reduced to seven. ["& on question" stricken out] <sup>which was</sup> disag<sup>d</sup> to and the 3<sup>d</sup>. ["on the" stricken out] Section [art. V. ["sect. 3" stricken out]] confirmed by the following vote.

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

Art. IV. sec. 5. <sup>being</sup> reconsidered.

Mr. Randolph moved that the clause be altered so as to read—"Bills for raising money for the purpose of revenue <sup>or for appropriating the same shall originate in the House of Representatives</sup> so ["&c" stricken out] and shall not be amended or altered by the Senate ["so" stricken out] as to increase or diminish the sum to be raised, or ["to" stricken out] change the mode of lev<sup>y</sup>ing it, or the object of its appropriation."—He would not repeat his reasons, but barely remind the members from the smaller States of the compromise by which the larger States were entitled to this privilege.

Col. Mason. This amendment removes all the objections

urged ag<sup>st</sup> the section as it stood at first. By specifying purposes of revenue, it obviated the objection that the Section extended to all ["cases" stricken out] bills under which money might incidentally arise. By authorizing amendments in the Senate it got rid of the objections that the Senate could not correct errors of any sort, & that it would introduce <sup>into</sup> the House of Rep<sup>s</sup> the practice of tacking foreign matter to money bills: These objections being removed, the arguments in favor of ["the", illegible words, "exclusive", stricken out] the proposed restraint on the Senate ought to have their full force. 1. the Senate did not represent the people, but the States in their political character. It was improper therefore that ["they" <sup>it</sup> stricken out] should tax the people. The reason was the same ag<sup>st</sup> <sup>it</sup> their doing; as it had been ag<sup>st</sup> Cong<sup>s</sup> doing it. Nor was it in any respect necessary in order to cure the evils of our Republican system. He admitted that notwithstan["d" written upon "g"]ing the superiority of the Republican form over every other, it had its evils. The ["two" stricken out] chief o["n" written upon "f"]es, were the danger of the majority oppressing the minority, and the<sup>1</sup> mischievous influence of demagogues. The Gen<sup>l</sup> Government of itself will cure these. As the States will not concur at the same time in their unjust & oppressive plans, the general Gov<sup>t</sup> will be able to check & defeat them, whether they result from the wickedness of the majority, or from the misguidance of demagogues. Again, the <sup>Senate</sup> is not like the H. of Rep<sup>s</sup> chosen frequently and obliged to return frequently among the people. They are to <sup>be</sup> chosen by the Sts for 6 years, will probably settle themselves at the seat of Gov<sup>t</sup> will pursue schemes for their own aggrandizement—will be able <sup>by</sup> <sub>^</sub> ["by" stricken out]

weary<sup>g</sup><sup>out</sup> the H. of Rep<sup>s</sup> and taking advantage of their impatience at the ["end" stricken out] close of a long Session, to extort measures for that purpose. If they should be paid as he expected would be<sup>yet</sup> determined & wished to be so, out of the Nat<sup>l</sup> Treasury, they will particularly extort an increase of their wages. A bare negative was a very different thing from that of originating bills. The practice in Engl<sup>d</sup> was in point. The House of Lords does not represent nor tax the people, because not elected by the people. If the Senate can originate, they will in the recess of the Legislative Sessions, hatch their mischievous projects, for their own purposes, and have their money bills ready cut & dried, (to use a common phrase) for the meeting of the H. of Rep<sup>s</sup>. He compared the case to Poyning's law—and signified that the House of Rep<sup>s</sup> might be rendered like the Parliament of Paris, the mere depository ["of" written upon "and"] the decrees of the Senate. As to the compromise so much had passed on that subject that he would say nothing about it. He did not mean by what he had said to oppose the permanency of the Senate. On the contrary he had no repugnance to an increase of it—["thought" stricken out] nor to allowing it a negative, though the Senate was not by its present constitution entitled to it. But in all events he would contend that the purse-strings should<sup>be</sup> in the hands of the Representatives of the people.

Mr Wilson was himself directly opposed to the equality of votes granted to the Senate by its present Constitution. At the same<sup>time</sup> he wished not to multiply the vices of the system. He did not mean to enlarge on a subject which had been so much canvassed, but would remark ["that" stricken out] as an insuperable objection ag<sup>st</sup> the proposed restriction of money bills to the H. of Rep<sup>s</sup> that it would be a source of perpetual

contentions where there was no mediator to decide them. The Presid<sup>t</sup> here could not like the Executive Magistrate in England interpose by a prorogation, or dissolution. This restriction had been found pregnant with altercation in every State where the Constitution had established it. The House of Rep<sup>s</sup> will insert th[“e” written upon “i”] [“ngs in money”  
<sup>other things in money</sup> stricken out] bills, and by making them conditions of each other, destroy the deliberate liberty of the Senate. He stated the case of a Preamble to a money bill sent up by the House of Commons in the reign of Queen Anne, to the H. of Lords, in which the conduct of the displaced Ministry, who were to be impeached<sup>before the Lords</sup>, was condemned; the Commons thus extorting a premature judgm<sup>t</sup> without any hearing of the Parties to be tried, and the H. of Lords being thus reduced to the poor & disgraceful expedient of opposing to the authority of a law a protest on their Journals ag<sup>st</sup><sup>its</sup> being drawn into precedent. If there was any thing like Poyning’s law in the present case, it was in the attempt to vest the exclusive right of originating in the H. of Rep<sup>s</sup> and so far he was ag<sup>st</sup> it. He should be equally so if the right were to be exclusively vested in the Senate. With regard to the pursestrings, [“it” written upon “th”] was to be observed that the purse was to have two strings, one of which was in the hands of the H. of Rep<sup>s</sup> the other in those of the Senate. Both houses must concur in untying, and of what importance could it be which untied first, which last. He could not conceive it to be any objection to the Senate’s preparing the bills, that they would have leisure for that purpose and would be in the habits of business. War, Commerce, & Revenue were the great objects of the Gen<sup>l</sup> Government. All of them are connected with money. The restriction in favor of the H. of Rep<sup>s</sup> would

exclude the Senate from originating any important bills whatever—

Mr Gerry. considered this as a part of the plan that would be much scrutinized. Taxation & representation are strongly associated in the minds of the people, and they will not agree that any but their immediate representatives shall meddle with their purses. In short the acceptance of the plan will inevitably fail, if the Senate be not restrained from originating Money bills.

Mr Govern<sup>r</sup> <sup>Morris</sup> All the arguments suppose the right to originate & to tax, to be exclusively vested in the Senate.—The effects [<sup>commented on</sup> “mentioned” stricken out] may be produced by a Negative only in the Senate. They can tire out the other House, and extort their concurrence in favorite measures, as well [<sup>commented on</sup> “by” written upon “as”] withholding their negative, as by adhering to a bill introduced by themselves.

Mr <sup>thought</sup> Madison If the substitute offered by Mr Randolph for the original section is to be adopted [<sup>commented on</sup> “he thought” stricken out] it would be proper to allow the Senate at least so to amend as to diminish the sums to be raised. Why should they be restrained from checking the extravagance of the other House?—One of the greatest evils incident to Republican Gov<sup>t</sup> was the spirit of contention & faction. The proposed substitute, which in some respects lessened the objections ag<sup>st</sup> the section, had a contrary effect with respect to this particular. It laid a foundation for new difficulties and disputes between the two houses. The word revenue [<sup>was</sup> “was extremely” stricken out] ambiguous. In many acts, particularly in the regulations of trade, the object would be twofold. The raising of revenue would be one of them. How could it be determined which was the primary or predominant one; [<sup>commented on</sup> “and”

stricken out]<sup>or</sup> whether it was necessary that revenue sh<sup>d</sup> be<sup>the</sup> sole object, in exclusion even of other incidental effects. When the Contest was first opened with G. B. their power to regulate trade was admitted. Their power to raise revenue rejected. An accurate investigation of the subject afterward proved that no line could be drawn between the two cases. The words amend or alter, form an equal source of doubt & altercation. When an obnoxious paragraph shall be sent down from the Senate to the House of Rep<sup>s</sup> it will be called an origination under the name of an amendment. The Senate may actually couch extraneous matter under that name. In these cases, the question will turn on the degree of connection between the matter & object of the bill and the amendment offered to it. Can there be a more fruitful source of dispute, or a kind of dispute more difficult to be settled? His apprehensions on this point were not conjectural. Disputes had actually flowed from this source in Virga, where the Senate can originate no bill. [<sup>alteration or</sup> "by" stricken out] The words "so as to increase or diminish the sum to be raised," were liable to the same objections. In levying indirect taxes, which it seemed to be understood were to form the principal revenue of the new Gov<sup>t</sup> the sum to be raised, would be increased or diminished by a variety of collateral circumstances influencing the consumption, [<sup>of</sup> "the" stricken out] in general, the consumption of foreign or domestic articles—of this or that particular species of articles [<sup>of</sup> "by way of preference" stricken out], and even by the mode of collection which may be closely connected with the productiveness of a tax.—["With" stricken out] The friends of the section had argued its necessity from the permanency of the Senate. He could not see how this argument applied. The Senate was not more permanent now than in the form it bore in the original propositions of M<sup>r</sup> Randolph and at the time when no objection whatever was hinted ag<sup>st</sup>



its originating money bills. <sup>Or</sup> ["And" stricken out] if in consequence of the present question, a proportional vote should <sup>a loss of</sup> <sup>in the Senate</sup> be reinstated <sup>["for" stricken out]</sup> <sup>as has been urged as the indemnification</sup> ["in the Senate which" stricken out] the permanency of the Senate will remain the same.—If the right to originate be vested exclusively in the House of Rep<sup>s</sup> either the Senate must yield ag<sup>st</sup> its judgment to that House, in which the Utility of the check will be lost—<sup>case</sup>—or the Senate will be inflexible & the H. of Rep<sup>s</sup> must ["vary" stricken out] <sup>adapt</sup> its Money bill to the ["will of the" stricken out] views of the Senate, in which case, the exclusive right will be of no avail.—As to the Compromise of which so much had been said, he would <sup>make a single</sup> ["state make one" stricken out] observation. There were 5 States which had ["op" written upon "vo"<sup>posed</sup>] ["ted ag<sup>st</sup>" stricken out] the equality of votes in the Senate. viz. Mas<sup>ts</sup> Penn<sup>a</sup> Virg<sup>a</sup> N. Carolina & S. Carol<sup>a</sup> As <sup>from them</sup> a compensation for the sacrifice extorted on this head, the exclusive origination of money bills in the other House had been tendered. ["Of" written upon "The"] the five States <sup>Penn<sup>a</sup>.</sup> a majority ["hav" stricken out] viz. ["Mas<sup>ts</sup>" stricken out] Virg<sup>a</sup> & S. Carol<sup>a</sup> have uniformly voted ag<sup>st</sup> the proposed compensation, on its own merits, ["and" stricken out] as rendering the plan of Gov<sup>t</sup> still more objectionable—Mass<sup>ts</sup> has been divided, ["on the subject" stricken out]. N. Carolina alone has set a value on the compensation, and voted on that principle. What obligation then can the <sup>small</sup> States be under to concur ag<sup>st</sup> their judgments in reinstating the section?

M<sup>r</sup> Dickenson. Experience must be our only guide. Reason may mislead us. It was not Reason that discovered the singular & admirable mechanism of the English Constitution. It was ["that when" stricken out] not Reason that

discovered or ever could have discovered the odd & in the eye of those who are governed by reason, the absurd mode of trial by Jury. Accidents ["first" stricken out] probably produced these discoveries, and experience has give a sanction to them. This is then our guide. And has not experience verified the utility of restraining money bills to the immediate representatives of the people. Whence the effect may have proceeded he could not say; whether from the respect <sup>with</sup> which this privilege inspired the other branches of Gov<sup>t</sup> to the H. of Comons, or from the turn of thinking it gave to the people at large with regard to their rights, Shall we oppose to this long experience, the short experience of 11 years which we had ourselves, but the effect was visible & could not be doubted—As to <sup>on this subject</sup> disputes, they could not be avoided any way. If both Houses should originate, each would have a different bill to which it would <sup>be</sup> attached, and for which it would contend.—He observed that all the prejudices of the people would be offended by refusing this exclusive privilege to the H. of Repres<sup>s</sup> and these prejudices sh<sup>d</sup> never be disregarded by us when no essential purpose was to be served. When this plan goes forth, it will <sup>be</sup> attacked by the popular leaders. Aristocracy will the watchword; the Shibboleth among its adversaries. Eight States have inserted in their Constitutions the exclusive right of <sup>in favor of the popular branch of the Legislature.</sup> originating money bills. Most of them however allowed the other branch to amend. This he thought would be proper for us to do.

M<sup>r</sup> Randolph regarded this point as of such consequence, that as he valued the peace of this Country, he would press the adoption of it. We had numerous & monstrous difficulties to combat. Surely we ought not to increase them. When the people behold in the Senate, the countenance of an aristocracy; and in the president, the form at least of a little

monarch, will not their alarms be sufficiently raised without taking from ["the H. of Rep<sup>s</sup>" stricken out] their immediate representatives, a right which has been so long appropriated to them.—The Executive will have more influence over the Senate, than over the H. of Rep<sup>s</sup>—Allow the Senate to originate in this case, & that influence will be sure to mix itself in their deliberations & plans. The Declaration of War he conceived ought not to be in the Senate composed of 26 men only, but rather in the other House. In the other House ought to be placed the origination of the means of war. As to Commercial regulations which may involve revenue, the difficulty may be avoided by restraining the definition to bills for the mere or sole, purpose of raising revenue. The Senate will be more likely to be corrupt than the H. of Rep<sup>s</sup> and should therefore have less to do with money matters. His principal object however <sup>was</sup> to prevent <sup>popular</sup> objections against the plan, and to secure its adoption.

Mr Rutledge. The friends of this motion are not consistent in their reasoning. They tell us, that the long experience of G. B. & not our own experience of 11 years: and yet they themselves propose to depart from it. The H. of Comons not only have the exclusive right of originating, but the Lords are not allowed to alter or amend a money bill. Will not the people say that this <sup>restriction</sup> ["Amendment" stricken out] is but a mere tub to the whale. They cannot but see that it is of no real consequence; and will be more likely to be displeased with it as an attempt to bubble them, than to impute it to a watchfulness over their rights. For his part, he would prefer giving the exclusive right to the Senate, if it was to be given <sup>exclusively</sup> at all. The Senate being more conversant <sup>the</sup> in business, and having more leisure, will digest bills much

better, and as they are to have no effect, till examined & approved by the H. of Rep<sup>s</sup> there can be no possible danger. These clauses in the Constitutions of the States had been put in through a blind adherence to the British model. If the work was to be done over now, they would be omitted. The experiment in S. Carolina- where the Senate cannot originate or <sup>amend</sup> money bills, has shown that it answers no good purpose; and produces the very bad one of continually dividing & heating the two houses. Sometimes indeed if the ["amendment of the Senate pleases" stricken out] matter of the amendment of the Senate is pleasing to the other House they wink at the encroachment; if it be displeasing, then the Constitution is appealed to. Every Session is distracted by altercations on this subject. The practice now becoming frequent is for the Senate not to make formal amendments; but to send down a schedule of the alterations which will procure the bill their assent.

[Written vertically, in lead pencil, on the margin of the page are the following words, in Madison's handwriting: to

"transfer this note to bottom margin"]

\* while he disapproved & till now voted agst, the exclusive privilege, he gave up his judgment he said, because it was not of very material weight with him & was made an essential point with others, who if disappointed, might be less cordial in other points of real weight.

M<sup>r</sup> Carrol. The most ingenious men in Mary<sup>d</sup> are puzzled to define the case of money bills, or explain the Constitution on that point; tho' it seemed to be worded with all possible plainness & precision. It is a source of continual difficulty & squabble between the two houses.

M<sup>r</sup> McHenry mentioned an instance of extraordinary subterfuge, to get rid of the apparent force of the Constitution

On Question on the first part of the motion as to <sup>the exclusive</sup> originating of Money bills in the H. of Rep<sup>s</sup>

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. Virg<sup>a</sup> ay. M<sup>r</sup> Blair & M<sup>r</sup> M. no— M<sup>r</sup> R. Col. Mason and \* Gen<sup>l</sup> Washington ay. N. ["C." written upon "H"] ay. S. C. no. Geo. no.

Question on Originating <sup>by H. of Rep<sup>s</sup></sup> & amending by Senate. as reported,

Art IV. Sect. 5.

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. no. Pa<sup>a</sup> no. Del. no. M<sup>d</sup> no.  
<sup>\* N. C. ay</sup>  
 Va<sup>a</sup> ay. S. C. no. Geo. no

Question on the last clause of sect: 5—Art: IV—viz "No money shall be drawn from the Public Treasury, but in pursuance of appropriations that shall originate in the House of Reps. It passed in the negative

N. H. no. Mas. ay. Con. ["no" written upon "ay"] N. J. ["no." written upon "ay"] Pa. ["no" written upon "ay"] Del ["no" written upon "ay"]. M<sup>d</sup> ["no" written upon "ay"] Va ["no." written upon "ay"]. N. C. ["no" written upon "ay"]. S. C. ["no" written upon "ay"]. Geo. ["no" written upon "ay"].

Adj<sup>d</sup>

Tuesday Aug. 14. In Convention

Article VI. sect. 9. taken up.

M<sup>r</sup> Pinkney argued that the making the members ineligible to offices was <sup>into</sup> degrading to them, and the more improper as their election the Legislature implied that they had the confidence of the people; that it was inconvenient, because the Senate might be supposed to contain the fittest men. He hoped to see that body become a School of Public Ministers, a nursery of Statesmen: that it was impolitic, because the Legislature would cease to be a magnet to the first talents and abilities. He moved <sup>to postpone the section in order to take up the following</sup> ["to strike out the ineligibility of proposition viz—"the members of each House shall be incapable of holding any office under the the members, leaving them incapable of retaining their Seats, U. S. for which they or any of others for their benefit receive any salary, fees, or emoluments of after an election to offices." stricken out] <sup>any kind—and the acceptance of such office shall vacate their seats respectively"</sup>

Gen<sup>l</sup> Mifflin 2<sup>d</sup> the motion

Col. Mason ironically proposed to strike out the whole section, as a more effectual expedient for encouraging that exotic corruption which might not otherwise thrive so well in the American Soil—for compleating that Aristocracy which was probably in the contemplation of some among us. and for inviting into the ["public" stricken out] <sup>Legislative</sup> service, those generous & benevolent characters who will do justice to each other's merit, by carving out offices & rewards for it. In the

\* In the printed Journ Virg<sup>a</sup>—no



present state of American morals & manners, <sup>it may be thought</sup> few friends <sup>^</sup> will be lost to the plan, by ["such the scheme" stricken <sup>the opportunity</sup> out] <sup>^</sup> of giving premiums to a mercenary & depraved ambition.

M<sup>r</sup> Mercer. It is a first principle in political science, that whenever the rights of property are secured, an aristocracy will grow out of it. Elective Governments also necessarily become aristocratic, because the rulers being few can & will draw emoluments for themselves from the many. The Governments of America will become aristocracies. They are so already. The public measures are calculated for the benefit of the Governors, not of the people. The people ["complain" stricken out] are dissatisfied & complain. They change their rulers, and the public measures are changed, but it is only a change of one scheme of emolument to the rulers, for another. The people gain nothing by it, but an addition of instability & uncertainty to their other evils.—Governm<sup>ts</sup> can only be maintained by force or influence. The Executive has not force, <sup>Legislature</sup> deprive him of influence by rendering the members of the <sup>Legislature</sup> ineligible to Executive offices, and he becomes a mere phantom of authority. The Aristocratic part will not even let him in for a share of the plunder.<sup>1</sup> The Legislature must & will be composed of wealth & abilities, and the people will be governed by a["n" stricken out] Junta. The Executive ought to have a Council, <sup>being</sup> ["the" stricken out] <sup>^</sup> members of ["that" stricken out] both Houses. Without such an influence, the war will be between the aristocracy & the people. He wished it to be between the Aristocracy & the Executive. Nothing else can protect the people ag<sup>st</sup> those speculating Legislatures which are now plundering them throughout the U. States.

M<sup>r</sup> Gerry read a Resolution of the Legislature of Mass.<sup>ts</sup>



passed before the Act of Cong<sup>s</sup> recommending the Convention, in which her deputies were instructed not to depart from the rotation established in the 5<sup>th</sup> art: of Confederation, nor to agree in any case to give to the members of Cong<sup>s</sup> a capacity to hold offices under the Government. This he said was repealed in consequence of the Act of Cong<sup>s</sup> with which the State thought it proper to comply in an unqualified manner. The Sense of the State however was still the same. He could not think with M<sup>r</sup> Pinkney that the disqualification was degrading. Confidence is the road to tyranny. As to Ministers & Ambassadors few of them were necessary. It is the opinion of a great many that they ought to be discontinued, on our part; that none may be sent among us, & that source of influence <sup>be</sup> shut up. If the Senate were to appoint Ambassadors as seemed to be intended, they will multiply embassies for their own sakes. He was not so fond of those productions as to wish to establish nurseries for them. If they are once appointed, the House of Rep<sup>s</sup> will be obliged to provide salaries for them, whether they ["like" stricken out] approve of the measures or not. If men will not serve in the Legislature without a prospect of such offices, our situation is deplorable indeed. If our best Citizens are actuated by such mercenary views, we had better chuse a single despot at once. It will be more easy to satisfy the rapacity of one than of many. According to the idea of one Gentleman (Mr. Mercer) our Government it seems is to be a Gov<sup>t</sup> of plunder. In that case it certainly would be prudent to have but one rather than many to be employed in it. We cannot be too ["cautious in" stricken out] circumspect in the formation of this System. It will be examined on all sides and with a very suspicious eye. <sup>The</sup> People who have been so lately in arms ag<sup>st</sup> G. B. for

their liberties, ["will" stricken out] will not easily give them up. He lamented the evils existing at present under our Governments, but imputed them to the faults of those in office, not to the people. The misdeeds of the former will produce a critical attention to the opportunities afforded by the new system to like or greater abuses. <sup>As it now stands it is as complete an aristocracy as ever was framed</sup> If great powers should be given to the Senate we shall be governed in reality by a Junto as has been apprehended. He remarked that it would be very differently constituted from Cong<sup>s</sup> 1. there will be but 2 deputies from each State, in Cong<sup>s</sup> there may be 7. and <sup>are</sup> generally 5.—2. <sup>they are</sup> they chosen for six years. those of Cong<sup>s</sup> annually. 3. not subject to recall; those of Cong<sup>s</sup> are. 4. In Cong<sup>s</sup> 9 states are necessary for all great purposes—here 8 persons ["may possibly suffice" stricken out] will suffice. Is it to be presumed that the people will ever agree to such a system? He moved to render the members of the H. of Rep<sup>s</sup> as well as of the Senate <sup>not only</sup> ineligible during, but for one year after the expiration of their terms.—If it should be thought that this will <sup>injure</sup> ["injure" stricken out] the Legislature by keeping out of it men of abilities who are willing to serve in other offices it may be required as a qualification for other offices, that the Candidate shall have served a certain time in the Legislature.

M<sup>r</sup> Gov<sup>r</sup> Morris. Exclude the officers of the army & navy, and you form a band having a different interest from & opposed to the civil power: you stimulate them to despise & reproach those "talking Lords who dare not face the foe". Let this spirit be roused at the end of a war, before your troops shall have laid down their arms, and though the Civil authority be "entrenched in parchment to the teeth" they will cut their way to it. He was ag<sup>st</sup> render-

ing the members of the Legislature ineligible to offices. He was for rendering them eligible ag<sup>n</sup> after having vacated their Seats by accepting office. Why should we not avail ourselves of their services if the people chuse to give them their confidence. There can be little danger of corruption ["here" stricken out] either among the people or the Legislatures who are to be the Electors. If they say, we see their merits, we honor the men, we chuse to renew our confidence in them, have they not a right to give them a preference; and can they be properly abridged of it.

Mr Williamson; introduced his opposition to the motion by referring to the question concerning "money bills". That clause he said was dead. Its ghost he was afraid would notwithstanding haunt us. It ["was" stricken out] <sup>had been</sup> a matter of conscience with him, to insist upon it as long as there was hope of retaining <sup>it</sup>. He had swallowed the vote of rejection, with reluctance. He could never digest it. All that was said on the other side was that the restriction was not convenient. We have now got a House of Lords which is to originate money-bills. To avoid another inconveniency, we are to have a whole Legislature at liberty to cut out offices for one another. He thought a self-denying ordinance for ourselves would be more proper. Bad as the Constitution has been made by expunging the restriction <sup>on the Senate</sup> concerning money bills he did not wish to make it worse by expunging the present Section. He had scarcely seen a single corrupt measure in the Legislature of N- Carolina, which could not be traced up to office hunting.

Mr Sherman. The Constitution sh<sup>d</sup> lay as few temptations as possible in the way of those in power. Men of abilities will increase as the Country grows more populous and, and the means of education are more diffused.

Mr Pinkney- No State has rendered the members of the Legislature["s" stricken out] ineligible to offices. In S- Carolina the Judges are eligible into the Legislature. It cannot be supposed then that the motion will be offensive to the people. If the State Constitutions should be revised he believed ["these" stricken out] restrictions of this sort w<sup>d</sup> be rather diminished than multiplied.

Mr Wilson could not approve of the Section as it stood, and could not give up his judgment to any supposed objections that might arise ["ag<sup>s</sup>" stricken out] among the people. He considered himself as acting & responsible for the welfare of millions not immediately represented in this House. He had also asked himself the serious question what he should say to his constituents in case they should call upon <sup>him</sup> to tell them why he sacrificed his own Judgment in a case where they authorized him to exercise it? ["to with a view to flatter" stricken out.] Were he to own to them that he sacrificed it in order to flatter their prejudices, he should dread the retort: did you suppose the people of Penn<sup>a</sup> had not good sense enough to receive a good Government? Under this impression he should certainly follow his own<sup>1</sup> Judgment which disapproved of the section. He would remark in addition to the objections urged ag<sup>st</sup> it, that as one branch of the Legislature was to be appointed by the Legislatures of the States, the other by the people of the States, as both are to be paid by the States, and <sup>to be</sup> appointable to State offices; nothing seemed to be wanting to prostrate the <sup>Nat<sup>l</sup></sup> ["Gen<sup>1</sup>" stricken out] Legislature, but to render its members ineligible to Nat<sup>l</sup> offices, & by that means take ["n" stricken out] away ["the only its quality" stricken out] its power of attracting those talents which were necessary to give weight to the Govern<sup>t</sup>

and to render it useful to the people. He was far from thinking the ambition which aspired to Offices of dignity and trust, an ignoble or culpable one. He was sure it was not politic to regard it in that light, or to withhold from it the prospect of those rewards, which might engage it in the career of public service. He observed that the State of Penn<sup>a</sup> which had <sup>gone</sup> as far as any State into the policy of fettering power, had not rendered the members of the Legislature ineligible to offices of Gov<sup>t</sup>.

Mr Elsworth did not think the mere postponement of the reward would be any material discouragement of merit. Ambitious minds will serve 2 years or 7 years in the Legislature for the sake of qualifying themselves for other offices. This he thought a sufficient security for obtaining the services of the ablest men in the Legislature, although whilst members they should be ineligible to Public offices. Besides, merit will be most encouraged, when most impartially rewarded. If rewards are to circulate only within the Legislature, merit out of it will be discouraged.

Mr Mercer was extremely anxious on this point. What led to the appointment of this Convention? The corruption & mutability of the Legislative Councils of the States. If the plan does not remedy these, it will not recommend itself: and we shall not be able in our private capacities to support & enforce it: nor will the best part of our Citizens exert themselves for the purpose.—It is a great mistake to suppose that paper we are to propose will govern the U. States? <sup>It is</sup> The men whom it will bring into the Govern<sup>t</sup> and interest in maintaining <sup>it</sup> that is to govern them. The paper will only mark out the mode & the form— Men are the substance and must do the business. All Gov<sup>t</sup> must be by force or influ-

ence. It is not the King of France—but 200,000 janissaries, of power that govern that Kingdom. There will be no such force here; influence then must be substituted; and he would ask whether this could be done, if the members of the Legislature should be ineligible to [“all” stricken out] offices of State; whether such a disqualification would not determine all the most influential men to stay at home, and & prefer appointments within their respective States.

Mr Wilson was by no means <sup>satisfied</sup> with the answer given by Mr Elsworth to the argument as to the discouragement of merit. The members must either go <sup>a second time</sup> into the Legislature, and disqualify themselves—or say to their Constituents, we served you before only from the mercenary view of qualifying ourselves for offices, and have<sup>s</sup> answered this purpose we do not chuse to be again elected.

Mr <sup>Morris</sup> Gov<sup>r</sup> put the case of a war, and the Citizen most capable of conducting it, happening to be a member of the Legislature. What might have been the consequence of such a regulation at the commencement, or even in the Course of the late contest for our liberties?

On question for postponing in order to take up Mr Pinkneys motion, it was lost.

N- H- ay- Mass. no. C<sup>t</sup> no. N. J- no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S- C. no. Geo. [“ay” stricken out] div<sup>d</sup>.

Mr Gov<sup>r</sup> Morris moved to insert, after “office”, except <sup>their offices shall be vacated</sup> offices in the army or navy: but in that case<sup>1</sup>

Mr Broome <sup>2<sup>ds</sup>, him</sup>

M. Randolph had been & should continue uniformly opposed to the striking out of the clause; as opening a door for influence & corruption. No arguments had made any impression on <sup>him</sup> [“them” stricken out], but those which



related to the case of war, and a["n" stricken out]<sup>co-</sup> existing incapacity of the fittest commanders to be employed. He admitted great weight in these, and would agree to the exception proposed by M<sup>r</sup> Gov<sup>r</sup> Morris.

M<sup>r</sup> Butler & M<sup>r</sup> Pinkney ["opposed" stricken out] urged a general postponem<sup>t</sup> <sup>of 9 Sect. art. VI</sup> till it should be seen what powers would be vested in the Senate, when it would be more easy to judge of the expediency of allowing the Officers of State to be chosen out of that body.—A general postponement was agreed to nem. con.

Art: VI. sect. 10. taken up—"that members be paid by their respective States."

M<sup>r</sup> Elseworth said that in reflecting on this subject he had been satisfied that too much dependence on the States would be produced by this mode of payment. He moved <sup>to strike it out and insert</sup> "that they should" be paid out of the ["Nation<sup>l</sup>" stricken out]<sup>of the U. S.</sup> Treasury an allowance not exceeding ["four" stricken out]<sup>(blank)</sup> dollars per day or the present value thereof, ["and for every thirty miles in travelling to & from Congress" stricken out]

M<sup>r</sup> Gov<sup>r</sup> Morris. remarked that if the members were to be paid by the States it would throw an unequal burden on the distant States, which would be unjust as the Legislature was to be a national Assembly. He moved that the payment be out of the Nat<sup>l</sup> Treasury; leaving the quantum to the discretion of the Nat<sup>l</sup> Legislature. There could be no reason to fear that they would overpay themselves.

M<sup>r</sup> Butler contended for payment by the States; particularly in the case of the Senate, who will be so long out of their ["particular" stricken out]<sup>respective</sup> States, <sup>they</sup> that will lose sight of their Constituents unless dependent on them for their support.

M<sup>r</sup> Langdon was ag<sup>st</sup> payment by the States. There would be some difficulty in fixing the sum; but it would be unjust to oblige the distant States to bear the expense of their members in travelling to and from the Seat of Gov<sup>t</sup>

M<sup>r</sup> <sup>Madison.</sup> If the H. of Rep<sup>s</sup> is to be chosen biennially—and the Senate to be constantly dependent on the Legislatures which are chosen annually, he could not see any chance for that stability in the Genl Gov<sup>t</sup> the want of which was a principal evil in the State Gov<sup>ts</sup> [“The Senate” stricken out] His fear was that the organization of the Gov<sup>t</sup> supposing the Senate to be really independ<sup>t</sup> for six years, would <sup>not</sup> effect our purpose. It was nothing more than a combination of the peculiarities of two of the State Gov<sup>ts</sup> which separately had been found insufficient. The Senate was formed on the model of that of Maryl<sup>d</sup> The Revisionary check, on that of N. York. What <sup>the</sup> effect <sup>of</sup> [“A” written upon “the”] union of these provisions might be, could not be foreseen. The enlargement of the sphere of the Government was indeed a circumstance which he thought would be favorable as he had on several occasions undertaken to show. He was however for fixing at least two extremes not to be exceeded by the Natl. Legis<sup>re</sup>, in the payment of themselves.

M<sup>r</sup> Gerry. There are difficulties on both sides. The observation of M<sup>r</sup> Butler has weight in it. On the other side, the State Legislatures may turn out the Senators by reducing their salaries. Such things have been practised.

Col. Mason. It has not yet been [“taken” stricken out] noticed that the clause as it now stands makes the House of Represent<sup>s</sup> also dependent on the State Legislatures; so that both Houses will be [“the” stricken out] made the instruments of the politics of the States whatever they may be.

M<sup>r</sup> Broom could see no danger in trusting the Genl Legislature with the payment of themselves. The State

Legislatures had this power, and no complaint had been made of it-

M<sup>r</sup> Sherman was not afraid that the Legislature would make their own wages too high; but too low, so that men ever so fit could not serve unless they were at the same time rich. He thought the best plan would be to fix a <sup>moderate</sup> ["small" stricken out] allowance to be paid out of the Nat<sup>l</sup> Treas<sup>y</sup>. and let the States make such additions as they might judge fit. He moved that 5 dollars <sup>per day</sup> be the sum, any further emoluments to be added by the States.

M<sup>r</sup> Carrol had been much surprised at seeing this clause in the Report. The dependence of both houses on the State Legislatures is compleat; especially as the members of the former are eligible to State offices. The States can now say: if you do not comply with our wishes, we will starve you: if you do we will reward you. The new Gov<sup>t</sup> in this form was nothing more than a second edition of Congress in two volumes, instead of one, and perhaps with very few amendments—

M<sup>r</sup> Dickenson took it for granted that all were convinced of the necessity of making the Gen<sup>l</sup> Gov<sup>t</sup> independent of the prejudices, passions, and improper views of the State Legislatures. <sup>The contrary of</sup> This was effected by the section <sup>as it stands.</sup> On the other hand, there were objections <sup>ag<sup>t</sup></sup> taking a permanent standard as Wheat which had been suggested on a former occasion, as well as against leaving the matter to the pleasure of the Nat<sup>l</sup> Legislature. He proposed that an Act should be passed every 12 years by the Nat<sup>l</sup> Legisl<sup>re</sup> settling the quantum of their wages. ["This" stricken out] If the Gen<sup>l</sup> Gov<sup>t</sup> should be left dependent on the State Legislatures, it would be happy for us if we had never met ["in" written upon "here"] this Room.

Mr Elsworth was not unwilling himself to trust the Legislature with authority to regulate their own wages, but well knew that an unlimited discretion for that purpose would produce strong, tho' perhaps not insuperable objections. He thought changes in the value of money, provided for his <sup>motion</sup> ["amendment" stricken out] in the words, "or the present value thereof."

Mr L. Martin. As the Senate is to represent the States, the members of it ought to be paid by the States—

Mr Carrol. The Senate was to represent & manage the affairs of the whole, and not to be the advocates of State interests. They ought then not to be dependent on nor paid by the States.

On the question for paying the Members of the Legislature out of the Nat<sup>l</sup> Treasury, ["under," illegible word, "of the Nat<sup>l</sup> Legislature providing therefore," stricken out] ÷

N. H. ay. Mas. no. Ct ay. N. J. ay. Pa ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. no. Geo. ay.

Mr Elsworth moved that the pay be fixed at 5 doll<sup>rs</sup> or the present value thereof per day during their attendance & for every thirty miles in travelling <sup>^</sup> ["pending" stricken out] to & from Congress.

Mr Strong preferred 4 dollars, leaving the Sts at liberty to make additions

On question for fixing the pay at 5 dollars.

N. H. no. Mas. no. Ct ay. N. J. no. Pa no. Del no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

Mr Dickenson proposed that the wages of the members of both houses s<sup>d</sup> be required to be the same.

Mr Broome seconded him.

Mr Ghorum. this would be unreasonable. The Senate will be detained longer from home, will be obliged to remove their families, and in time of war perhaps to sit constantly.

Their allowance should certainly be higher. The members of the Senates in the States are allowed more, than those of the other house.

Mr Dickenson withdrew his motion

It was moved & agreed to amend the Section by adding to to be ascertained by law "

The Section [Art VI. sec. 10] as amended- agreed to nem. con.

Adj<sup>d</sup>

Wednesday August 15. in Convention

Art: VI. sect. 11. Agreed to nem. con. [illegible words stricken out]

Art: VI Sect- 12. taken up.

Mr Strong move["d" written upon "s"] to amend <sup>the article so as to read —</sup> ["so as  
"Each House shall possess the right of originating <sup>all</sup> bills, except bills for raising money for the  
to insert in the amendment of money bills by Senate on this  
purposes of revenue, or for appropriating the same and for fixing the salaries of the officers of  
point be", illegible word stricken out]

the Gov<sup>t</sup>. which shall originate in the House of Representatives; but the Senate may propose  
or concur with amendments as in other cases " <sup>["which shall" effaced]</sup>

Col. Mason. 2<sup>ds</sup> the motion. He was extremely earnest to  
take this power from the Senate, who he said could <sup>already</sup> sell the  
whole <sup>Country</sup> by means of Treaties.

Mr Ghorum urged the amendment as of great importance.  
The Senate will first acquire the habit of preparing ["and"  
stricken out] money bills, and then the practice will grow  
into an exclusive right of preparing them.

Mr Gouvern<sup>r</sup> Morris opposed it as unnecessary and inconvenient.

Mr Williamson— some think this restriction on the Senate  
["as" stricken out] essential to liberty— others think it of no  
importance. Why should not the former be indulged. he  
was for an efficient and stable Gov<sup>t</sup> but many would not

strengthen the Senate if not ["deprived" stricken out] restricted in the case of money bills. The friends of the Senate would therefore ["1" written upon "g"]ose more than they would gain by refusing to gratify the other side. He moved to postpone <sup>the subject</sup> till the powers of the Senate should be gone over.

Mr Rutledge 2<sup>ds</sup> the motion.

Mr Mercer should hereafter be ag<sup>st</sup> returning to a reconsideration of this section. He contended, (alluding to Mr Mason's observations) that the Senate ought not to have the power of treaties. This power belonged to the Executive department; adding that Treaties would not be final so as to alter the laws of the land, till ratified by legislative authority. This was the case of Treaties in Great Britain; particularly the late Treaty of Commerce with France.

Col. Mason. did not say that a Treaty would repeal a law; but that the Senate by <sup>means of treaty</sup> might alienate territory &c. without legislative sanction. The cessions of the British Islands in the W- Indies by Treaty alone were an example- If Spain should possess herself of Georgia therefore the Senate might by treaty dismember the Union. He wished ["the" written upon "to"] motion to be decided now, that the friends of it might know how to conduct themselves.

On question for postponing Sect: 12. it passed in the affirmative.

N. H. ay. Mas. ay C<sup>t</sup> no. <sup>N. J. no</sup> Pen<sup>a</sup> no. <sup>Del. no</sup> Mary<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay- Geo. ay.—["postponed" stricken out]

Mr Madison moved that all acts before they become laws should be submitted both to the Executive and <sup>Supreme</sup> Judiciary Departments, that if either of these should object  $\frac{2}{3}$  of each House, if both should object,  $\frac{3}{4}$  of each House, should be necessary to overrule the objections and give to the acts



the force of law.—see the motion at large in the Journal of this date, page 255. & insert it here.

Mr Wilson seconds the motion

Mr Pinkney opposed the interference of the Judges in the Legislative business: it will involve them in parties, and give a previous tincture to their opinions.

Mr Mercer heartily approved the motion. It is an axiom that the Judiciary ought to separate from the Legislative: but equally so that it ought to be independent of that department. The true <sup>policy</sup> ["principle" stricken out] of the axiom is that legislative usurpation and oppression may be obviated. He disapproved of the Doctrine that the Judges as expositors of the Constitution should have authority to declare a law void. He thought laws ought to be well and cautiously made, and then to be uncontrollable.

Mr Gerry. This motion comes to the same thing with what has been already negatived.

Question on the motion of Mr Madison

N— H. no. Mass. no. Ct no. N. J. no. Pa no. Del. ay. Mary<sup>d</sup> ay. Virg<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

Mr Gov<sup>r</sup> Morris regretted that something like the proposed check could not be agreed to. He dwelt on the importance of public Credit, and the difficulty of supporting it without some strong barrier against the instability of legislative Assemblies. He suggested the idea of requiring three fourths of each house to repeal laws where the President should not concur. He had no great reliance on the revisionary power as the Executive was now to be constituted [elected by the Congress]. The legislature will contrive to soften down the President. He recited the history of paper emissions, and the perseverance of the legislative assemblies

in repeating them, with all the distressing effects <sup>of such measures</sup> before their eyes. Were the National legislature formed, and a war was now to break out, this ruinous expedient would be again resorted to, if not guarded against. The requiring  $\frac{3}{4}$  to repeal would, though not a compleat remedy, prevent the hasty passage of laws, and the frequency of those repeals which destroy ["in public" stricken out] faith in the public, and which are among our greatest calamities.—

M<sup>r</sup> Dickenson was strongly impressed with the remark of M<sup>r</sup> Mercer as to the power of the Judges to set aside the law. He thought no such power ought to exist. He was at the same time at a loss what expedient to substitute. The Justiciary of Aragon he observed ["had" stricken out] became by degrees the lawgiver.

M<sup>r</sup> Gov<sup>t</sup> Morris, suggested the expedient of an absolute negative in the Executive. He could not agree that the Judiciary which was part of the Executive, should be bound to say that a direct violation of the Constitution was law. A controul over the legislature might have its inconveniences. But view the danger on the other side. The most virtuous citizens will often ["in their" stricken out] as members of a legislative body concur in measures which afterwards in their private capacity they will <sup>be</sup> <sub>^</sub>ashamed of. Encroachments of the popular branch of the Government ought to be guarded ag<sup>st</sup>. The Ephori at Sparta became in the end absolute. The Report of the Council of Censors in Pennsylv<sup>a</sup> points out the <sup>many</sup> <sub>^</sub>invasions of the legislative department on the Executive numerous as the latter\* is, within the short term of seven years, and in a State where a strong party is opposed to the Constitution, and watching every

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\* The Executive consists at this time of abt. 20 members.

occasion of turning the public resentments ag<sup>st</sup> it. If the Executive be overturned by the popular branch, as happened in England, the tyranny of one man will ensue— In Rome where the Aristocracy overturned the throne, the consequence was different. He enlarged on the tendency of the legislative Authority to usurp on the Executive and wished the section to be postponed, in order to consider of some more [“acceptable check” stricken out] effectual check than requiring  $\frac{2}{3}$  only to overrule the negative of the Executive.

M<sup>r</sup> Sherman. Can one man be trusted better than all the others if <sup>they</sup> all agree? This was neither wise nor safe. He disapproved of Judges meddling in politics and parties. We have gone far enough in forming the negative as it now stands.

M<sup>r</sup> Carrol— when the negative to be overruled by  $\frac{2}{3}$  only was agreed to, the quorum was not fixed. He remarked that as a majority was now to be the quorum, 17, in the larger, and 8 in the smaller house might carry points. <sup>The</sup> Advantage that might be taken of this seemed to call for greater impediments to improper laws. He thought the controuling power however of the Executive could be well decided, till it was seen how the formation of that department would be finally regulated. He wished the consideration of the matter to be postponed.

M<sup>r</sup> Ghorum saw no end to these difficulties and postponements. Some could not agree to the form of Government before the powers were defined. Others could not agree to the powers till it was seen how the Government was to be formed. He thought a majority as large a quorum as was necessary. [“No larger” stricken out.] It was the quorum almost every where fixt in the U. States.

Mr Wilson; after viewing the subject with all the coolness and attention possible was most apprehensive of a dissolution of the Gov<sup>t</sup> from the legislature swallowing up all the other powers. He remarked that the prejudices ag<sup>st</sup> the Executive resulted from a misapplication of the adage that the parliament was the palladium of liberty. Where the Executive was really formidable, <sup>King</sup>King and Tyrant, were naturally associated in the minds of people; not legislature and tyranny. But where the Executive was not formidable, the two last were properly associated. After the destruction of the King in Great Britain, a more pure and unmixed tyranny sprang up in the parliament than had been exercised by the monarch. He insisted that we had not guarded ag<sup>st</sup> the danger on this side by a sufficient self-defensive power either to the Executive or Judiciary department—

Mr Rutledge was strenuous ag<sup>st</sup> postponing; and complained much of the tediousness of the proceedings.

Mr Elsworth held the same language. We grow more & more skeptical as w[“e” written upon “as”] proceed. If we do not decide soon, we shall be unable to come to any decision.

The question for postponement passed in the negative: <sup>only being in the affirmative.</sup>

Mr Williamson moved to change “ $\frac{2}{3}$  of each house” into “ $\frac{3}{4}$ ” as requisite to overrule the dissent of the President. He saw no danger in this, and preferred giving the power to the Presid<sup>t</sup> alone, to admitting the Judges into the business of [“the” stricken out] legislation.

Mr Wilson 2<sup>ds</sup> <sup>the motion;</sup> referring to and repeating the ideas of Mr Carroll.

On this motion for  $\frac{3}{4}$ . instead of two thirds; it passed in the [“negative” stricken out] affirmative

N- H- no- Mas. no. C<sup>t</sup> ["ay" written upon "no"] N- J. no. Pen<sup>a</sup> div<sup>d</sup> Del- ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C ay. S. C. ay. Geo. no.

M<sup>r</sup> Madison, observing that if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes &c- proposed that <sup>or resolve ["&c" stricken out]"</sup> ["these" stricken out] should be added after "bill" in the beginning of sect 13. with an exception as to votes of adjournment &c.—after a short and rather confused conversation on the subject, the question was put & <sup>rejected</sup> ["lost" stricken out], the States being as follows,

N. H. no- Mas. ay- C<sup>t</sup> no. N- J. no- Pen<sup>a</sup> no. Del ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. no. Geo. no.

"Ten days instead of "seven" <sup>were</sup> allowed to the President <sup>N. H. & Mas only voting ag<sup>t</sup>. it. as amended</sup> for returning bills with his objections <sup>The 13 sect of art. VI was then agreed to.</sup>

Adjourned.

Thursday, August 16. in Convention.

M<sup>r</sup> Randolph, having thrown <sup>into<sup>a</sup> new form</sup> the motion, ["is to" stricken out] <sup>putting</sup> votes, Resolutions &c. on a footing with Bills, renewed <sup>it as follows.</sup> "Every order resolution or vote, to which the concurrence of the Senate & House of Reps. may be necessary (except on a question of adjournment and in the cases hereinafter mentioned) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, "shall" stricken out] or being disapproved by him shall be repassed by the Senate & House of Reps according to the rules & limitations prescribed in the case of a Bill" ["which was agreed to as sect. 14 of art VI." stricken out]

M<sup>r</sup> Sherman thought it unnecessary, except as to votes taking money out of the Treasury which might be provided for in another place.

On Question as moved by M<sup>r</sup> Randolph

N- H. ay. Mas: not present, C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N- C. ay. S. C. ay. Geo. ay.

<sup>The Amendment was made a Section 14 of Art VI.</sup>

Art: VII. Sect. 1. taken up.

M<sup>r</sup> L. Martin asked what was meant by the Committee of

detail ["between" stricken out] <sup>in the expression</sup> "duties" and "imposts". If the meaning were the same, the former was unnecessary; if different, the matter ought to be made clear.

M<sup>r</sup> Wilson, duties are applicable to many objects to which the word imposts does not relate. The latter are appropriated to commerce; the former extend to <sup>a variety of</sup> ["such" stricken out] objects, ["of" stricken out] as stamp duties &c.

M<sup>r</sup> Carroll reminded the Convention of the great difference of interests among the States, and doubts the propriety in that point of view of letting a majority be a quorum.

M<sup>r</sup> Mason urged the necessity of connecting with the powers of levying taxes duties &c, ["the proviso" stricken out] <sup>the prohibition in Sect 4 of art VI</sup> that no tax should be laid on exports. He was unwilling to trust to its being done in a future ["plan" stricken out] article. He hoped the North<sup>n</sup> States did not mean to deny the Southern this security. It would hereafter be as desirable to the former when the latter should become the most populous. He professed his jealousy for the productions of the Southern or as he called them, the staple States.

<sup>"provided that no tax duty or imposition, shall be laid by the Legislature of the U. States on articles exported from any State"</sup>  
He moved to insert the following amendment: <sup>^</sup>

M<sup>r</sup> Sherman had no objection to the proviso here, other than it would derange the parts of the report as made by the Committee, to take them in ["a different" stricken out] such an order.

M<sup>r</sup> Rutledge. It being of no consequence in what order points are decided, he should vote for the clause as it stood, but on condition that the subsequent part relating to negroes should also be agreed to.

M<sup>r</sup> Gouverneur Morris considered such a proviso as inadmissible any where. It was so radically objectionable, that it might cost the whole system the support of some members.



He contended that it would not in some cases be equitable to tax imports without taxing exports; and that taxes on exports would be often the most easy and proper of the two.

M<sup>r</sup> Madison 1. the power of taxing exports is proper in itself, and as the States cannot with propriety exercise it separately, <sup>it</sup> ought to be vested in them collectively. 2. it might with particular advantage be exercised with regard to ["such" stricken out] articles in which America was not rivalled in foreign markets, as Tob<sup>o</sup> &c. The contract between the French Farmers Gen<sup>l</sup>. and M<sup>r</sup> Morris stipulating that if taxes s<sup>d</sup> be laid in America on the export of Tob<sup>o</sup> they s<sup>d</sup> be paid by the Farmers, showed that it was understood by them, that the price would be thereby raised <sup>in America</sup>, and consequently the taxes be paid by the European Consumer. 3. it would be unjust to the States whose produce was exported by their neighbours, to leave <sup>it</sup> ["the" stricken out] subject to be taxed by the latter. This was a grievance which had already filled N. H. Con<sup>t</sup> N. Jer<sup>y</sup> Del: and N. Carolina with loud complaints, as it related to imports, and <sup>they</sup> <sup>by the States</sup> would be equally authorized by taxes on exports. 4. The South<sup>n</sup> States being most in danger and most needing naval protection, could the less complain if the burden should be somewhat heaviest on them. 5. we are <sup>not</sup> providing for the present moment only, and time will equalize the situation of the States in this matter. He was for these reasons, ag<sup>st</sup> the motion

M<sup>r</sup> Williamson considered the clause proposed ag<sup>st</sup> taxes on exports as reasonable and necessary.

M<sup>r</sup> Elsworth was ag<sup>st</sup> Taxing exports; but thought the ["proviso" stricken out] <sup>prohibition</sup> stood in the most proper place, and was ag<sup>st</sup> deranging the order reported by the Committee

M<sup>r</sup> Wilson was decidedly ag<sup>st</sup> prohibiting <sup>general</sup> taxes on exports.

He dwelt on the injustice and impolicy of leaving N. Jersey &c any longer subject to the exactions of their commercial neighbours.

M<sup>r</sup> Gerry thought the legislature could not be trusted with such a power. It might ruin the Country. It might be exercised partially, raising one and depressing another part of it.

M<sup>r</sup> Gov<sup>r</sup> Morris. However the legislative power may be formed, it will if disposed be able to ruin the Country— He considered the taxing of exports to be in many cases highly politic. Virginia has found her account in taxing Tobacco. All Countries having peculiar articles tax the exportation of them; as France her wines and brandies. A tax here on lumber, would fall on the W. Indies & punish their restrictions on our trade. The same is true of [“life” stricken out] live-stock and in some degree of flour. In case of a dearth in the West Indies, we may extort what we please. Taxes on exports are a necessary source of revenue. For a long time the people of America will not have money to pay direct taxes. Seize and sell their effects and you push them into Revolts—

M<sup>r</sup> Mercer was strenuous against giving Congress power to tax exports. Such taxes were impolitic, as encouraging the raising of articles not meant for exportation. [“Some” stricken out.] The States had now a right where their situation permitted, to tax both the imports and exports of their uncommercial neighbours. It was enough[“t” effaced] for them to sacrifice one half of it. It had been said the Southern States had most need of naval protection. The reverse was the case. Were it not for promoting the carrying trade of the North<sup>n</sup> States, the South<sup>n</sup> States could let their trade go into foreign bottoms, where it would not need our protection. Virginia by taxing her tobacco had given an advantage to that of Maryland.

Mr Sherman. To examine and compare the States in relation to imports and exports will be opening a boundless field. He thought the matter had been adjusted, and that imports were to be subject, and exports not, to be taxed. He thought it wrong to tax exports except it might be such articles as ought not to be exported. The complexity of the business in America would render an equal tax on exports impracticable. The oppression of the uncommercial States was guarded ag<sup>st</sup> by the power to regulate trade between the States. As to compelling foreigners, that might be done by regulating trade in general. The Government ["ought not" stricken out] would not be trusted with such a power. Objections<sup>are</sup> most likely to be excited by considerations relating to money. A power to tax exports would shipwreck the whole.

Mr Carrol was surprised that any objection should be made to an exception of exports from the power of taxation.

It was finally agreed that the question concerning exports sh<sup>d</sup> lie over for the place in which the exception stood in the report: Mary<sup>d</sup>. alone voting<sup>ag<sup>st</sup> it</sup>.

Sect: 1. [art. VII] agreed to: Mr Gerry alone answering no.

Clause for regulating commerce with foreign nations &c. agreed to nem. con.

for coining money. ag<sup>d</sup> to nem. con.

for regulating foreign coin. d d<sup>o</sup>

for fixing the standard of weights & measnres. d<sup>o</sup> d<sup>o</sup>

"To establish post-offices". Mr Gerry moved to add, and post-roads. Mr Mercer 2<sup>ded</sup> & on question

N- H- no- Mas- ay- C<sup>t</sup> no. N. J- no. Pen<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. ay. Geo. ay.

Mr Gov<sup>r</sup> Morris moved to strike out "and emit bills ["of" stricken out] <sup>on the</sup> credit of the U. States"—If the United States had credit such bills would be unnecessary: if they had not unjust & useless.

Mr Butler, 2<sup>ds</sup> the motion.

Mr Madison, will it not be sufficient to prohibit the making <sup>them</sup> them a tender? This will remove the temptation to emit <sup>them</sup> with unjust views. And promissory notes in that shape may in some emergencies be best.

Mr Gov<sup>r</sup> Morris. striking out the words will leave room still for notes of a responsible minister which will do all the good without the mischief. The Monied interest will oppose the plan of Government, if paper emissions be not prohibited.

Mr Ghorum was <sup>for</sup> striking out, without inserting any prohibition. if the words stand ["it" stricken out] they may suggest and lead to the measure.

Col Mason had doubts on the subject. Cong<sup>s</sup> he thought would not have the power unless it were expressed. Though["t" stricken out] he had a mortal hatred to paper money, yet as he could not foresee all emergences, he was unwilling to tie the hands of the Legislature. He observed that the late war could not have been carried <sup>on</sup>, had such a prohibition existed.

Mr Ghorum- The power as far as it will be necessary or safe, is involved in that of borrowing.

Mr Mercer was a friend to paper money, though in the present state & temper of America, he should neither propose nor approve of ["it" stricken out] such a measure. He was consequently opposed to a prohibition of it altogether. It will stamp suspicion on the Government to deny it a discretion on this point. It was impolitic also to excite

the opposition of all those who were friends to paper money. The people of property would be sure to be on the side of the plan, and it was impolitic to purchase their further attachment with the loss of the opposite class of Citizens

Mr Elseworth thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made, were now fresh in the public mind and had excited the disgust of all the respectable part of America. By withholding the power from the new Govern<sup>t</sup> more friends of influence would be gained to it than by almost any thing else- Paper money can in no case be necessary- Give the Government credit, and other resources will offer- The power may do harm, never good.

Mr Randolph, notwithstanding his antipathy to paper money, could not agree to strike out the words, as he could not foresee all the occasions that might arise.

Mr Wilson. It will have a most salutary influence on the credit of the U. States to remove the possibility of paper money. This expedient can never succeed whil[“st” written upon “e i”] its mischiefs are remembered. And as long as it can be resorted to, it will be a bar to other resources. [“If the emission” stricken out]

Mr Butler. remarked that paper was a legal tender in no Country in Europe. He was urgent for disarming the Government of such a power.

Mr Mason was still averse to tying the hands of the Legislature altogether. If there was no example in Europe [<sup>as just remarked</sup> “in favor of paper tender,” stricken out] it might be observed <sup>on</sup> the other side, that there was none in which the Government was restrained on this head.

M<sup>r</sup> Read, thought the words, if not struck out, would be as alarming as the mark of the Beast in Revelations.

M<sup>r</sup> Langdon had rather reject the whole plan than retain the three words "[and emit bills"].

On the motion for striking out

N. H. ay- Mas. ay. C<sup>t</sup> ay. N- J. no. Pa<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay<sup>x</sup>. N. C- ay. S. C. ay. Geo. ay.

\*This vote in the affirmative by Virg<sup>a</sup> was occasioned by the acquiescence of M<sup>r</sup> Madison who became satisfied that striking out the words would not disable the Gov<sup>t</sup> from the use of public notes as far as they could be safe & proper; & would only cut off the pretext for ["regular emissions" stricken out] <sup>a paper currency</sup> and particularly for making the ["m" stricken out] <sup>bills</sup> a tender either for public or private debts.

The clause for borrowing money, agreed to nem. con.

["&c. &c" stricken out]

Adj<sup>d</sup>

Friday August 17<sup>th</sup> in Convention

Art VII. sect. 1. resumed. On <sup>the</sup> clause "to appoint Treasurer by ballot".

M<sup>r</sup> Ghorum moved to insert "joint" before ballot, as more convenient as well as reasonable, than to require the separate concurrence of the Senate.

M<sup>r</sup> Pinkney 2<sup>ds</sup> the motion. M<sup>r</sup> Sherman opposed it as favoring the larger States.

M<sup>r</sup> Read moved to strike out the clause, leaving the appointment of the Treasurer as of other officers to the Executive. The Legislature was an improper body for appointments. Those of the State legislatures were a proof



of it- The Executive being responsible would make a good choice.

M<sup>r</sup> Mercer 2<sup>ds</sup> the motion of M<sup>r</sup> Read.

On the motion for inserting the word "joint" before ballot

N. H- ay. Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. M<sup>d</sup> no. V<sup>a</sup> ay- N- C. ay. S. C. ay. Geo- ay-

Col. Mason in opposition to M<sup>r</sup> Reads motion desired it might be considered to whom the money would belong; if to the people, the legislature representing the people ought to appoint the keepers of it.

On striking out the clause as amended by inserting "Joint"

N. H. no- Mas. no. C<sup>t</sup> no. P<sup>a</sup> ay- Del- ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S- C- ay. Geo. no-

"To constitute inferior tribunals" agreed to nem. con.

"To make rules as to captures on land & water"- d<sup>o</sup> d<sup>o</sup>

"To declare the law and punishment of piracies and felonies &c" &c considered.

M<sup>r</sup> Madison moved to strike out "and punishment" &c-

M<sup>r</sup> Mason doubts the safety of it, considering the strict rule of construction in criminal cases. He doubted also the propriety of taking the power in all these cases wholly from the States.

M<sup>r</sup> Govern<sup>r</sup> Morris thought it would be necessary to extend the authority farther, so as to provide for the punishment of counterfeiting in general. Bills of exchange for example might be forged in one State and carried into another: It was suggested by ["him", illegible words "by", stricken out] some other member that foreign paper might be counterfeited by Citizens; and that it might be politic to provide by national authority for the punishment of it.

M<sup>r</sup> Randolph did not conceive that expunging "the punishment" would be a constructive exclusion of the power. He doubted [<sup>only</sup>"the" stricken out] the efficacy of the word "declare".

M<sup>r</sup> Wilson was in favor of the motion- Strictness was not necessary in giving authority to enact penal laws; though necessary in enacting & expounding them.

On motion for striking <sup>out</sup> "and punishment" as moved by M<sup>r</sup> Madison

N. H. ["ay" stricken out] no. Mas. ay. C<sup>t</sup> no. P<sup>a</sup> ay. Del. ay- M<sup>d</sup> no. V<sup>a</sup> ay. N- C- ay. S- C. ay- Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out "declare the law" and insert "punish" before "piracies". and on the question

N- H- ay. Mas- ay. C<sup>t</sup> no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C- no. S. C- ay. Geo- ay.

M<sup>r</sup> Madison, and M<sup>r</sup> Randolph moved to insert, "define &." before "punish".

M<sup>r</sup> Wilson thought "felonies" sufficiently defined by Common law.

M<sup>r</sup> Dickenson concurred with M<sup>r</sup> Wilson

M<sup>r</sup> Mercer was in favor of the amendment.

M<sup>r</sup> Madison. felony at common law <sup>is</sup> vague. It is also defective. One defect <sup>is</sup> supplied by Stat: of Anne as to running away with vessels which at common law <sup>was a</sup> breach of trust only. Besides no foreign law should be a standard further than <sup>is</sup> expressly adopted—If laws of <sup>the</sup> States were to prevail on this subject, the citizens of <sup>the</sup> different States would be subject to different punishments for same offence at sea—There would be neither uniformity nor stability in the law—The proper remedy for all these difficulties was to vest [<sup>by the term "define"</sup>"ed" stricken out] the power proposed in the Nat<sup>l</sup> legislature.

Mr Gov<sup>r</sup> Morris would prefer designate to define, the latter being as he conceived, limited to the preexisting ["rule" stricken out] meaning.—— It was said by others to be applicable to ["that" stricken out] the creating of offences also, and therefore suited ["both" stricken out] the case of <sup>both</sup> felonies & piracies.

The motion of Mr. M. & Mr. R was agreed to.

Mr Elsworth enlarged the motion so as to read "to define and punish piracies and felonies committed on the high seas, counterfeiting the securities and ["other" stricken out] current coin of the U. States, and offences ag<sup>st</sup> the law of Nations" which was agreed to, nem con.

"To subdue a rebellion in any State, on the application of its legislature"

Mr Pinkney moved to strike out "on the application of its legislature"

Mr Gov<sup>r</sup> Morris 2<sup>ds</sup>

Mr L- Martin opposed it as giving a dangerous & unnecessary power. The consent of the State ought to precede the introduction of any extraneous force whatever.

Mr Mercer supported the opposition of Mr Martin.

Mr Elsworth proposed to add after "legislature" "or Executive".

Mr Gov<sup>r</sup> Morris. The Executive may possibly be at the head of the Rebellion. The Gen<sup>l</sup> Gov<sup>t</sup> should enforce obedience in all cases where it may be necessary.

Mr Ellsworth. The Gen<sup>l</sup> Gov<sup>t</sup> ought to be able to interpose <sup>In many cases</sup> ["in many cases," stricken out] unless called upon. He was willing to vary his motion so as to read, ["& of the Executive" stricken out] <sup>not</sup> <sup>or without it</sup> when the legislature cannot meet."

Mr Gerry was ag<sup>st</sup> letting loose the myrmidons of the

U. States on<sup>a</sup> State without its own consent. The States will be the best Judges in such cases. More blood would have been spilt in Mass<sup>ts</sup> in the late insurrection, if the Gen<sup>l</sup> authority had intermeddled.

M<sup>r</sup> Langdon was for striking out as moved by M<sup>r</sup> Pinkney. The apprehension of the national force, will have a salutary effect in preventing insurrections.

M<sup>r</sup> Randolph- If the Nat<sup>l</sup> Legislature is to judge whether the State legislature can or cannot meet, that amendment ["was" stricken out] would make the clause as objectionable as the motion of M<sup>r</sup> Pinkney.

M<sup>r</sup> Gov<sup>r</sup> Morris. We are acting a very strange part. We first form a strong man to protect us, and ["are immediately for" stricken out] at the same time wish to tie his hands behind him, The legislature may surely be trusted with such a power to preserve the public tranquillity.

On the motion to add "or without it <sup>[application]</sup> when the legislature cannot meet"

N. H. ay. Mas. no. C<sup>t</sup> ay. P<sup>a</sup> div<sup>d</sup> Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N- C. div<sup>d</sup> S. C. ay. Geo. ay. so agreed to—

M<sup>r</sup> M<sup>a</sup>dison and M<sup>r</sup> Dickenson <sup>to insert as explanatory,</sup> moved after "State"—  
"against the Government thereof" There might be a rebellion ag<sup>st</sup> the U- States.— <sup>which was</sup> Agreed to nem- con.

On the clause as amended

N. H. ay. Mas<sup>ts</sup> abs<sup>t</sup> C<sup>t</sup> ay. Pen. abs<sup>t</sup> Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N- C. no. S. C. no- Georg. ay— <sup>so it was</sup> lost

["M<sup>r</sup> Dickenson moved" stricken out]

"To make war"

M<sup>r</sup> Pinkney opposed the vesting this power in the Legislature. Its proceedings were too slow. It w<sup>d</sup> meet but once

a year. The H<sup>s</sup> of Rep<sup>n</sup> <sup>would be</sup> too numerous for such deliberations. The Senate ["als" stricken out] would be the best depository, being more acquainted with foreign affairs, and most capable of proper resolutions. If the States are ["un" stricken out] equally represented in Senate, so as to give no advantage to large States, the power notwithstanding safe, as the small <sup>will</sup> have their all at stake in such cases as well as the large <sup>be</sup> <sup>States</sup>. It would be singular for one- <sup>authority</sup> ["power" stricken out] to make war, and another peace.

M<sup>r</sup> Butler. The Objections ag<sup>st</sup> the Legislature lie in a great degree ag<sup>st</sup> the Senate. He was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it.

M<sup>r</sup> Madison and M<sup>r</sup> Gerry moved to <sup>insert</sup> "declare," striking out "make" war; leaving to the Executive the power to repel sudden attacks.

M<sup>r</sup> Sharman thought it stood very well. The Executive sh<sup>d</sup> be able to repel and not to commence war. "Make" better than "declare" the latter narrowing the power too much.

M<sup>r</sup> Gerry never expected to hear in a republic a motion to empower the Executive alone to declare war.

M<sup>r</sup> Elsworth. there is a material difference between the cases of making war, and making peace. It sh<sup>d</sup> be more easy to get out of war, than into it. War also is a simple and overt declaration. peace attended with intricate & secret negotiations.

M<sup>r</sup> Mason was ag<sup>st</sup> giving the power of war to the Executive, because not to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather <sup>than</sup> facilitating war; but for facilitating <sup>he</sup> peace. preferred "declare" to "make". ["war" stricken out]

On <sup>the</sup> Motion to insert declare—in place of Make, it was agreed to.

N. H. no. Mas. abs<sup>t</sup> Con<sup>t</sup> no. <sup>†</sup> P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N. C. ay. S. C. ay. Geo— ay.

[“On” stricken out] M<sup>r</sup> Pinkney’s motion to strike out whole clause, disag<sup>d</sup> to <sup>without call of States.</sup> [“nem. con.” stricken out]

[\*On the remark by M<sup>r</sup> King that “make” war might be understood to “conduct” it which was an Execentive function, M<sup>r</sup> Elseworth gave up his objection [<sup>vote of Con<sup>t</sup> was changed to—ay</sup>]” stricken out] and the

M<sup>r</sup> Butler moved to give the Legislature power of peace, as they were to have that of war.

M<sup>r</sup> Gerry 2<sup>ds</sup> him. 8 Senators may possibly exercise the power if vested in that body, and 14 if all present; and give up part of the U. States. The Senate are more liable to be corrupted by an Enemy than the whole Legislature.

On the motion for adding “and peace” after “war”

N. H. no. Mas. no. C<sup>t</sup> no. P<sup>a</sup>. no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no S. C no. Geo. no.

Adjourned

Saturday August 18. in Convention

[“M<sup>r</sup> Pinkney proposed for consideration several additional powers which had occurred to him. See Journal of Convention.

“M<sup>r</sup> M.        proposed the following, to be referred to a committee. 1. to dispose of the unappropriated lands of the U. S. 2. To institnte temporary Governments for new States arising thereon. 3 to regulate affairs with the Indians as well within as without the limits of the U. States. 4. to exercise exclusively legislative authority at the seat of the Gen<sup>l</sup> Govern-

[The words from, “M<sup>r</sup>. Pinkney proposed for consideration”, to, “who had prepared the Report



ment, and over a district, around the same not exceeding square miles; the consent of the State or States comprehending such district being first obtained. 5 to grant charters of incorporation in cases where the public good may require them and the authority of a single State may be incompetent. 6. to secure to literary authors their copyrights for a limited time. 7 To secure to the inventors of useful machines and implements the benefits thereof for a limited time. 8 to establish a University. 9 to encourage by proper præmiûms and provisions, the advancement of useful knowledge and discoveries. 10. to authorize the Executive to procure and hold for the use of the U. States landed [<sup>in order to be referred to the Committee of detail</sup> 'property' stricken out] property for the erection of forts, magazines and other necessary buildings.

"These motions were referred to the Committee of detail who had prepared the Report nem con." stricken out]

Mr. Madison submitted, the following powers as proper to be added to those of the General Legislature [<sup>in order to be referred to the Committee of detail</sup> " " stricken out]

- "To dispose of the unappropriated lands of the U. States"
- "To institute temporary Governments for New States arising therein"
- "To regulate affairs with the Indians as well within as without the limits of the U. States  
the General
- "To exercise exclusively Legislative authority at the seat of Government and over a district  
around the same not, exceeding square miles; the Consent of the Legislature of the State or  
States comprising the same, being first obtained"
- "To grant charters of incorporation in cases where the Public good may require them, and  
the authority of a single State may be incompetent"
- "To secure to literary authors their copyrights for a limited time"
- "To establish an University"
- "To encourage by premiums & provisions, the advancement of useful knowledge and discoveries"
- "To authorize the Executive to procure and hold for the use of the U. S. landed property for  
the erection of Forts, Magazines, and other necessary buildings"
- of detail which had prepared the Report
- These propositions were referred to the Committee and at the same time the following  
in both cases unanimously
- which were moved by Mr. Pinkney. —
- "To fix and permanently establish the seat of Government of the U. S. in which they shall  
possess the exclusive right of soil & jurisdiction"
- "To establish seminaries for the promotion of literature and the arts & sciences"
- "To grant charters of incorporation"
- "To grant patents for useful inventions"

nem con were first  
stricken out and  
over them was pasted  
a piece paper con-  
taining the words  
from, "Mr Madison  
submitted", to, "To  
regulate Stages on  
the post roads"  
which follow in  
small type.]

"To secure to Authors exclusive rights for a '<sup>certain</sup> [limited' stricken out] time "

"To establish public institutions, rewards and immunities for the promotion of agriculture, commerce, trades and manufactures "

"That funds which shall be appropriated for the payment of public Creditors, shall not during the time of such appropriation, be diverted or applied to any other purpose- and that the Committee prepare a clause or clauses for restraining the Legislature of the U. S. from establishing a perpetual revenue "

"To secure the payment of the public debt "

"To secure all creditors under the New Constitution from a violation of the public faith when pledged by the authority of the Legislature "

"To grant letters of mark and reprisal "

"To regulate Stages on the post roads "

M<sup>r</sup> Mason introduced the subject of regulating the militia. He thought such a power necessary to be given to the Gen<sup>l</sup> Government. He hoped there would be no standing army in time of peace, unless it might <sup>be</sup> for a few garrisons. The Militia ought therefore <sup>to be</sup> the ["more effe rather to be" stricken out] more effectually prepared for the public defence. Thirteen States will never concur in any one system, if the disciplining of the Militia be left in their hands. If they will not give up the power over the whole, they probably will over a part as a select militia. He moved as an addition to the propositions just referred to the Committee of detail, ["that" stricken out] & to be referred in like manner, ["that" stricken out] "a power to regulate the militia".

M<sup>r</sup> Gerry remarked that some provision ought to be made in favor of public Securities, and something inserted concerning letters of marque, which he thought not included in the power of war. He proposed that these subjects should also go to ["the a committee of detail" stricken out] a Committee.

M<sup>r</sup> Rutledge moved to refer a clause "that funds appropriated to public creditors should not be diverted to other purposes."

M<sup>r</sup> Mason was much attached to the principle, but was afraid such a fetter might be dangerous in time of war. He

suggested the necessity of preventing ["any" stricken out] the danger of perpetual revenue which must of necessity subvert the liberty of any Country. If it be objected to on the principal of M<sup>r</sup> Rutlidge's motion that Public Credit may require perpetual ["propo" stricken out] provisions, that <sup>case</sup> might be excepted; it being declared that in other cases, no taxes should be laid for a longer term than        years. He considered the caution observed in Great Britain on this point as the paladium of the public liberty.

M<sup>r</sup> Rutlidge's motion was referred—He then moved that <sup>a</sup> <sup>be appointed to</sup> Grand Committee consider the necessity and expediency of the U- States assuming all the State debts—A regular settlement between the Union & the several States would never take place. The assumption would be just as the State debts were contracted in the common defence. It was necessary, as the taxes on imports the only sure source of revenue were to be given up to the Union. It was politic, as by disburdening the people of the State debts it would conciliate them to the plan.

M<sup>r</sup> King and M<sup>r</sup> Pinkney seconded the motion

[Col. Mason interposed a motion that the Committee prepare a clause for restraining perpetual revenue, which was agreed to nem- con.]

M<sup>r</sup> Sherman thought it would be better to authorize the Legislature to assume the State debts, than to say positively it should be done. He considered the measure as just and that it would have a good effect to say something about the Matter.

M<sup>r</sup> Elsworth differed from M<sup>r</sup> Sherman—As far the <sup>as</sup> State debts ought in equity to be assumed, he conceived that they might and would be so.

Mr Pinkney observed that a great part of the State debts were of such a nature that although in point of policy and true equity <sup>they ought</sup>, yet would they not be viewed in the light of federal expenditures.

Mr King thought the matter of more consequence than Mr Elsworth seemed to do; and that it was well worthy of commitment. Besides the consideration of justice and policy which had been mentioned, it ["was to be" stricken out] might be remarked that the State Creditors an["d" stricken out] active and formidable party would otherwise be opposed to a plan which transferred to the Union the best resources of the States without transferring the State debts at the same time. The State Creditors had generally been the strongest foes to the impost-plan. The State debts probably were of greater amount than the federal. He would not <sup>say</sup> that it was practicable to consolidate the debts, but he thought it would be prudent <sup>to</sup> have the subject considered by a Committee.


On Mr Rutledge's motion, that Com<sup>e</sup> <sup>be appointed to</sup> consider of the assumption &c

N. H. no. Mas. ay- C<sup>t</sup> ay. N- J. no. Pa<sup>a</sup> div<sup>d</sup> ["Del." written upon "M<sup>d</sup>"] no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C ay. Geo- ay.

[The Com<sup>e</sup>. appointed by ballot were — Mr. Langdon, Mr. King, Mr. Sherman, Mr. Livingston, Mr. Clymer, Mr. Dickenson, Mr. M Henry, Mr. Mason, Mr. Williamson, Mr. C. C. Pinkney, Mr. Baldwin.] \* 64

Mr Gerry's motion to provide for ["securing public debts" <sup>public securities</sup> stricken out] for stages on post-roads, and for letters of <sup>were</sup> marque and reprisal, committed nem. con.

Mr King suggested that all unlocated lands of particular States ought to be given up if State debts <sup>were</sup> to be assumed. ["so that" stricken out]—Mr Williamson concurred in the idea.

A Grand Committee was appointed consisting of <sup>appointment & transfer hither the names of the Committee.</sup> \* 

Mr Rutledge remarked on the length of the Session, the probable impatience of the public and the extreme anxiety of many members of the Convention to bring the business to an end; concluding with a motion that the Convention meet henceforward, precisely at 10 oC. A. M. and that precisely at 4 oC. P. M., the President adjourn the House without motion <sup>and that no motion to adjourn sooner be allowed</sup> for the purpose.

On this question

N- H. ay. Mas- ay. C<sup>t</sup> ay. N. J- ay. P<sup>a</sup> no- Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N- C- ay. S. C. ay- Geo. ay.

Mr Elsworth observed that a Council had not yet been provided for the President. He conceived there ought to be one. His ["advice" stricken out] <sup>proposition</sup> was that it should be composed of the President of the Senate- the Chief-Justice, and the Ministers as they might be estab<sup>d</sup> for the departments of foreign & domestic affairs, war finance, and marine, who should advise but not conclude the President.

Mr Pinkney wished the proposition to lie over, as notice had been given for a like purpose by Mr Gov<sup>r</sup> Morris who was not then on the floor. His own idea was that the President sh<sup>d</sup> be authorized to call for advice or not as he might chuse. Give him an able Council and it will thwart him; a weak one and he will shelter himself under their sanction.

Mr Gerry was ag<sup>t</sup> letting the heads of the departments, particularly of finance have any thing to do in ["the case" stricken out] business connected with legislation. He mentioned the Chief Justice also as particularly exceptionable. These men will <sup>also</sup> be so taken up with other matters as to neglect their own proper duties.

Mr Dickenson urged that the great appointments should be made by the Legislature, in which case they might properly be consulted by the Executive- but not if made by <sup>the</sup> Executive himself—This subject <sup>by general Consent</sup> lay over; & the House proceed[“ed” written upon “ing”] to the clause “To raise armies”.

Mr Ghorum moved to add “and support” after “raise”.  
and then the clause agreed to nem. con- as amended  
 Agreed to nem. con.

Mr Gerry took notice that there was <sup>no</sup> check here ag<sup>st</sup> stand-  
 ing armies in time of peace. The existing Cong<sup>s</sup> is <sup>so</sup> con-  
 structed that it cannot of itself maintain an army. This w<sup>d</sup>  
 not be the case under the new system. The people were  
 jealous on this head, and great opposition <sup>to the plan</sup> would spring from  
 such an omission. He suspected that preparations of force  
 were now making ag<sup>st</sup> it. [he seemed to allude to the activity  
 of the Gov<sup>r</sup> of N. York at this crisis in disciplining the militia  
 of that State.] He thought an army dangerous in time of  
 peace & could never consent to a power to keep up an indefi-  
 nite number. He proposed that there shall not be kept up  
 [“more” stricken out] in time of peace more than      thou-  
 sand troops. His idea was that the blank should be filled with  
 two or three thousand.

Instead of “to build and equip fleets”—“to provide &  
 maintain[“ ” stricken out] a navy” agreed to nem. con as  
 a more convenient definition of the power.

<sup>for the Government</sup>  
 “To make rules and regulation of the land & naval forces,”-  
 added from the existing Articles of Confederation.

Mr L. Martin and Mr Gerry now regularly moved <sup>provided</sup> “ that  
 [‘no army’ stricken out] in time of peace [‘should exceed’  
<sup>the army shall not consist of more</sup>  
 stricken out] than      thousand men.”

Gen<sup>l</sup> Pinkney asked whether no troops were ever to be  
 raised untill an attack should be made on us?



M<sup>r</sup> Gerry. if there be no restriction, a few States may establish a military Gov<sup>t</sup>

M<sup>r</sup> Williamson, reminded him of M<sup>r</sup> Mason's motion for limiting the appropriation of revenue as the best guard in this case.

M<sup>r</sup> Langdon saw no room for M<sup>r</sup> Gerry's distrust of the Representatives of the people.

M<sup>r</sup> Dayton. preparations for war are generally made in peace; and a standing force <sup>of some sort</sup> may, for aught we know, become unavoidable. He should object to no restrictions consistent with these ideas.

The motion of M<sup>r</sup> Martin & M<sup>r</sup> Gerry was disagreed to nem. con.

M<sup>r</sup> Mason moved as an additional power "to make laws <sup>of the several States</sup> for the regulation and discipline of the Militia reserving to the States the appointment of the Officers". He considered uniformity as necessary in the regulation of the Militia throughout the Union.

Gen<sup>l</sup> Pinkney mentioned a case during the war in which a dissimilarity in the militia of different States had produced the most serious mischiefs. Uniformity was essential. The States would never keep up a proper discipline of their militia.

M<sup>r</sup> Elsworth was for going as far <sup>in</sup> submitting the militia to the Gen<sup>l</sup> Government as might be necessary, but thought the motion of M<sup>r</sup> Mason went too far. He <sup>moved</sup> ["proposed" stricken out] that the militia should have the same arms & exercise <sup>rules established by</sup> and be under the Gen<sup>l</sup> Gov<sup>t</sup> when in actual service of the U<sup>s</sup> States and when States ["& supplies &c but but that" stricken out] The whole neglect to provide regulations for militia, it sh<sup>d</sup>. be regulated & established by the Legislature of U<sup>s</sup> S<sup>t</sup> ["See Journal" stricken out] <sup>Militia</sup> authority over the ["m" stricken out] ought by no means to be ["grow" stricken out] taken away from the States

[“which” stricken out] whose consequence would pine away<sup>to nothing</sup> after such a sacrifice of power. He thought the Gen<sup>l</sup> Authority could not sufficiently pervade the Union for such a purpose, nor could it accommodate itself to the local genius of the people. It must be vain to ask the States to give the Militia out of their hands.

M<sup>r</sup> Sherman 2<sup>ds</sup> the motion.

M<sup>r</sup> Dickenson. We are come now to a most important matter, that of the sword. His opinion was that the States never would nor ought to give up all authority over the Militia. He proposed to restrain[“e” stricken out] the general power to one fourth part at a time, which by rotation would discipline the whole Militia.

M<sup>r</sup> Butler urged the necessity of submitting the whole Militia to the general Authority, which had the care of the general defence.

M<sup>r</sup> Mason- had suggested the idea a select militia. He was led to think that would be in fact as much as the Gen<sup>l</sup> Gov<sup>t</sup> could advantageously [“command” stricken out] be charged with. He was <sup>afraid</sup> of creating insuperable objections <sup>to the plan.</sup> He withdrew his original motion, and moved a power “to make laws for regulating and disciplining the militia, not exceeding one tenth part in any one year, and reserving the appointment of officers to the States.”

Gen<sup>l</sup> Pinkney, renewed M<sup>r</sup> Mason’s original motion. For a part to be under the gen<sup>l</sup> and [“part” stricken out] part under the State Gov<sup>ts</sup> w<sup>d</sup> be an incurable evil. he saw no room for such distrust of the Gen<sup>l</sup> Gov<sup>t</sup>.

M<sup>r</sup> Langdon 2<sup>ds</sup> Gen<sup>l</sup>. Pinkney’s renewal. He saw no more reason to be afraid of the Gen<sup>l</sup> Gov<sup>t</sup> than of the State Gov<sup>ts</sup>.

He was more apprehensive of the confusion of the different authorities on this subject, than of either.

Mr Madison thought the regulation of the Militia naturally appertaining to ["they" stricken out] the authority charged with the public defence. It did not seem in its nature to be divisible between two distinct authorities. If the States would trust the Gen<sup>l</sup> Gov<sup>t</sup> with a power over the <sup>public treasure</sup> [illegible word stricken out], they would from the same ["from" stricken out] consideration of necessity grant it the direction of the public force. Those who had a full view of the public situation wd. from a sense of the danger, guard ag<sup>t</sup> it: the States would not be separately impressed with the general situation, nor have the due confidence in the concurrent exertions of each other.

Mr Elsworth- considered the idea of a select militia as impracticable; & if it were not it would be follow["ed" written upon "ing"] by a ruinous declension of the great body of the Militia. The States will never submit to the same militia laws. Three or four shilling's as a penalty will enforce obedience better in New England, than forty lashes in some other places.

Mr Pinkney thought the power such an one as could not be abused, and that the States would see the necessity of surrendering it. He had however but <sup>a scanty</sup> ["little" stricken out] faith in Militia. There must be <sup>also</sup> a real military force— This <sup>effectually answer the purpose.</sup> alone can ["support Government" stricken out] The United States had been making an experiment without it, and we see the consequence in their rapid approaches toward anarchy.\*

Mr Sherman, took notice that the States might want their Militia for defence ag<sup>t</sup> invasions and insurrections, and for enforcing obedience to their laws. They will not give up

\* This had reference to the disorders particularly which had occurred in Massachusetts which had called for the interposition of the federal troops.

this point- In giving up that of taxation, they retain a concurrent power of raising money for their own use.

Mr Gerry thought this the last point remaining to be surrendered. If it be agreed to by the Convention, the plan will have as black a mark as was set on Cain. He had no such confidence in the Genl. Gov<sup>t</sup> as some Gentlemen possessed, and believed it would be found that the States have not.

Col. Mason. thought there was great weight in the remarks of Mr Sherman- and moved an exception to his motion "of such part of the Militia as might be required by the States for their own use."

Mr Read doubted the propriety of leaving the appointment of the Militia officers to the States. In some States they ["are" written upon "were"] elected by the legislatures; in others by the people themselves. He thought at least an appoint<sup>ment</sup> ["ed" stricken out] by the State Executives ought to be insisted on.

On committing<sup>to the grand Committee last appointed,</sup> the latter motion["s" stricken out] of Col. Mason, & the original one revived by Ge<sup>l</sup> Pinkney

N. H- ay. Mas. ay. C<sup>t</sup> no. N- J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay. N. C. ay- S. C. ay. Geo. ay.

Adjourned

Monday August 20— in Convention.

[“Mr Pinkney submitted sundry propositions—1. authorising the Legislature to imprison for insult. 2. to require opinion of the Judges. 3. [‘providing’ stricken out] securing the benefit of the habeas corpus. 4. preserving the liberty of the press. 5 guarding ag<sup>st</sup> billeting of soldiers. 6. ag<sup>st</sup> raising troops without the consent of the Legislature. 7. rendering the great officers of the Union incapable of other offices either under the Gen<sup>l</sup> Gov<sup>l</sup> or the State Gov<sup>ts</sup> 8. forbidding religious tests. [“to Civil offices” stricken out] 9 declaring the U. States to be a body politic and corporate. 10 providing a great seal to be affixed to laws &c. 11. extending the jurisdiction of the Judiciary to controversies between the United States & States or individuals.—these were referred to the Committee of detail for consideration & report. [See Journal of this date]

[The words from, “Mr Pinkney submitted sundry propositions”, to, “referred to the Committee of detail. [See Journal of this date]”, were first stricken out and over them were pasted two pieces of paper containing the words from, “Mr. Pinkney submitted to the House”, to, “neglect of duty malversation or corruption”, which follow in small type.]

“Mr Gov<sup>r</sup> Morris and Mr Pinkney proposed a sett of resolutions organizing the Executive department—referred to the Committee of detail. [See Journal of this date]” stricken out]

Mr. Pinkney submitted to the House, in order to be referred to the Committee of detail, the following propositions—“Each House shall be the Judge of its own privileges, and shall have authority to punish by imprisonment every person violating the same; or who, in the place where the Legislature may be sitting and during the time of its session, shall [“hereafter” stricken out] threaten any of its members for any thing said or done in the House, or who shall assault any of them therefor—or who shall assault or arrest any witness or other person ordered to attend either of the Houses in his way going or returning; or who shall rescue any person arrested by their order.”

“Each branch of the Legislature, as well as the Supreme Executive shall have authority to require the opinions of the supreme Judicial Court upon important questions of law, and upon solemn occasions”

“The privileges and benefit of the Writ of Habeas corpus shall be enjoyed in this Government in the most expeditious and ample manner, and shall not be suspended by the Legislature except upon the most urgent and pressing occasions, and for a limited time not exceeding        months

“The liberty of the Press shall be inviolably preserved”

“No troops shall be kept up in time of peace, but by consent of the Legislature”

“The military shall always be subordinate to the Civil power, and no grants of money shall be made by the Legislature for supporting military Land forces, for more than one year at a time”

"No soldier shall be quartered in any House in time of peace without consent of the owner."

"No person holding the office of President of the U. S., a Judge of their Supreme Court, Secretary for the department of [~~'Finance'~~ stricken out] Foreign Affairs, of Finance, of Marine, of War, or of , shall be capable of holding at the same time any other office of Trust or Emolument under the U. S. or an individual State"

"No religious test or qualification shall ever be annexed to any oath of office under the authority of the U. S."

"The U. S. shall be for ever considered as one Body corporate and politic [~~'and'~~ stricken out] in law, and entitled to all the rights privileges, and immunities, which to Bodies corporate do or ought to appertain"

"The Legislature of the U. S. shall have the power of making the great Seal which shall be kept by the President of the [~~'Senate'~~ stricken out] U. S. or in his absence by the President of the Senate, to be used by them as the occasion may require.—It shall be called the great Seal of the U. S. and shall be affixed to all laws."

"All Commissions and writs shall run in the name of the U. S."

"The Jurisdiction of the supreme Court shall be extended to all controversies between the U. S. and an individual State, or the U. S. and the Citizens of an individual State"

These propositions were referred to the Committee of detail without debate or consideration of them, by the House.

Mr. Govr. Morris <sup>2d</sup>ed. by Mr. Pinkney submitted the following propositions which were in like manner referred to the Committee of Detail.

"To assist the President in conducting the Public affairs there shall be a Council of State composed of the following officers—1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the U. S. as may in his opinion be necessary to the due administration of Justice, and such as may promote useful learning and inculcate sound morality throughout the Union: He shall be President of the Council in the absence of the President

2. The Secretary of Domestic Affairs who shall be appointed by the President and hold his office during pleasure. It shall be his duty to attend to matters of general police, the State of Agriculture and manufactures, the opening of roads and navigations, and the facilitating communications thro' the U. States; and he shall from time to time recommend such measures and establishments as may tend to promote those objects.

3. The Secretary of Commerce and Finance who shall also be appointed by the President during pleasure. It shall be his duty to superintend all matters relating to the public finances, to prepare & report plans of revenue and for the regulation of expenditures, and also to recommend such things as may in his Judgment promote the commercial interests of the U. S.

4. The Secretary of foreign affairs who shall also be appointed by the President during pleasure. It shall be his duty to correspond with all foreign Ministers, prepare plans of Treaties, & consider such as may be transmitted from abroad; and generally to attend to the interests of the U. S. in their connections with foreign powers.

5. The Secretary of War who shall also be appointed by the President during pleasure. It shall be his duty to superintend every thing relating to the war-Department, such as the raising and equipping of troops, the care of military Stores- public fortifications, arsenals & the like—also in time of war to prepare & recommend plans of offence and Defence.

6. The Secretary of the Marine who shall also be appointed during pleasure—It shall be his



duty to superintend every thing relating to the Marine-Department, the public Ships Dock-Yards, Naval-stores & arsenals — also in the time of war to prepare and recommend plans of offence and defence.

The President shall also appoint a Secretary of State to hold his office during pleasure : who shall be Secretary to the Council of State, and also public Secretary to the President. It shall be his duty to prepare all public despatches from the President which he shall countersign

The President may from time to time submit any matter to the discussion of the Council of State, and he may require the written opinions of any one or more of the members. But he shall in all cases exercise his own judgment, and either Conform to such opinions or not as he may think proper; and every officer abovementioned shall be responsible for his opinion on the affairs relating to his particular Department.

Each of the officers abovementioned shall be liable to impeachment & removal from office for neglect of duty malversation, or corruption "

Mr Gerry moved "that the Committee be instructed to report ["the" stricken out] proper qualifications for the President, and a mode of trying Judges <sup>the Supreme in cases of</sup> ["of" stricken out] impeachment.

The clause "to call forth the aid of the Militia &c- was postponed till report should be made as to the power over the Militia referred yesterday to <sup>the Grand of eleven</sup> Committee .

Mr Mason moved to enable Congress "to enact sumptuary laws." No Government can be maintained unless the manners be made consonant to it. Such a discretionary power may do good and can do no harm. A proper regulation of excises & of trade may do a great deal but <sup>it is</sup> best to have an express provision. It was objected to sumptuary laws that they were contrary to nature. This was a vulgar error. The love of distinction it is true is natural; but the object of sumptuary laws is not to extinguish this principle but to give it a proper direction.

Mr Elsworth, The best remedy is to enforce taxes & debts. As far <sup>as</sup> the regulation of eating & drinking can be reasonable, it is provided for in the power of taxation.

Mr Gov<sup>r</sup> Morris argued that sumptuary laws tended to create a landed Nobility, by fixing <sup>in</sup> the great-landholders and their posterity their present possessions.

M<sup>r</sup> Gerry. the law of necessity is the best sumptuary law.  
On Motion of M<sup>r</sup> Mason "as to sumptuary laws"

N. H. no. Mas- no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup>  
no. N- C. no- S. C. no. Geo. ay.

"And to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested, by this Constitution, in the Government of the U. S. or any department or officer thereof."

M<sup>r</sup> M<sup>a</sup>dison and M<sup>r</sup> Pinkney moved to insert ["after" stricken out] between "laws" and "necessary" "and establish all offices". it appearing to them liable to cavil that the latter was not included in the former.

M<sup>r</sup> Gov<sup>r</sup> Morris. M<sup>r</sup> Wilson, M<sup>r</sup> Rutledge and M<sup>r</sup> Elsworth urged that the amendment could not be necessary.

On the motion for inserting "and establish all offices"

N. H. no. Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay.  
V<sup>a</sup> no. N- C- no. S. C. no. Geo. no.

The clause as reported <sup>was</sup> then agreed to nem con.

Art: VII sect. 2. concerning Treason <sup>which see</sup>

M<sup>r</sup> M<sup>a</sup>dison, thought the definition too narrow. It did not appear ["to him" stricken out] to go as far as the Stat. of Edw<sup>d</sup> III. He did not see why more latitude might not be left to the Legislature. It w<sup>d</sup> be as safe as in the hands of State legislatures; and it was inconvenient to ["bind" stricken out] bar a discretion which experience might enlighten, and which might be applied to good purposes as well as be abused.

M<sup>r</sup> Mason was for pursuing the Stat: of Edw<sup>d</sup> III.

M<sup>r</sup> Gov<sup>r</sup> Morris was for giving to the Union an exclusive right to declare what sh<sup>d</sup> be treason. In case of a contest between the U- S- and a particular State, the people of the

latter <sup>["be" effaced  
one]</sup> must, under the disjunctive terms of the clause, be traitors to or other authority.

Mr Randolph thought the clause defective in adopting the words "in adhering" only. The British Stat: adds. "giving them aid ["and" written upon "or"] comfort" which had a more extensive meaning.

Mr Elsworth considered the definition as the same in fact with that of the Statute.

Mr Gov<sup>r</sup> Morris "adhering" does not go so far as giving aid ["and" written upon "or"] Comfort" or the latter words may be restrictive of "adhering". in either case the Statute is not pursued.

Mr Wilson held "giving aid and comfort" to be explanatory, not operative words; and that it was better to omit them-

Mr Dickenson, thought the addition of "giving aid & comfort" unnecessary & improper; being too vague and extending too far- He wished to know what was meant by the "testimony of two witnesses", whether they were to be <sup>witnesses</sup> to the same overt act or to different overt acts. He thought ["ought" stricken out] also that proof of an overt-act ought to be expressed ["as" written upon "is"] essential in the case.

Doc<sup>r</sup> Johnson considered "giving aid & comfort" as explanatory of "adhering" & that something should be inserted in the definition concerning overt-acts. He contended that Treason could not be both ag<sup>st</sup> the U. States—and individual States; being ag<sup>st</sup> <sup>an offence</sup> the Sovereignty which can be but one in the same community-

Mr Madison remarked that "and" before "in adhering" should be changed into "or" otherwise both offences might be necessary to constitute Treason. <sup>viz of levying war & of adhering to the Enemy</sup> <sup>He added</sup> ["and" stricken out] that

as the definition here was of treason against the U. S. it would seem that the individual States w<sup>d</sup> be left in possession of a concurrent power so far as to define <sup>& punish</sup> treason particularly ag<sup>st</sup> themselves; which [illegible words, "and improper" stricken out] punishm<sup>t</sup>

It was moved that the whole clause be recommitted <sup>lost, the votes being equally divided.</sup> which was

N- H- no. Mas- no- C<sup>t</sup> no- N- J ay- P<sup>a</sup> ay- Del- no- M<sup>d</sup> ay.  
<sup>N C. div<sup>d</sup></sup> V<sup>a</sup> ay- S- C- no. Geo- ay.—["And" stricken out]

M<sup>r</sup> Wilson & Doc<sup>r</sup> Johnson moved, that "or any of them" after "United States" be struck out in order to remove the embarrassment: which was agreed to nem. con—

M<sup>r</sup> Madison This has not removed the embarrassment. The same Act might be treason ag<sup>st</sup> the United States as here defined—and ag<sup>st</sup> a particular State according <sup>to</sup> its laws.

M<sup>r</sup> Elsworth— There can be no danger to the Gen<sup>l</sup> authority from this; as the laws of the U. States are to be paramount.

Doc<sup>r</sup> Johnson was still of opinion there could be no Treason ag<sup>st</sup> <sup>even</sup> a particular State. It could not ["not be" stricken out] at present, as the Confederation now stands; the Sovereignty being in the Union; much less can it be under th<sup>e</sup> <sup>proposed</sup> "is" System.

Col. Mason. The United States will have a qualified sovereignty only. <sup>States will</sup> The individual retain a part of the Sovereignty. An Act may be treason ag<sup>st</sup> a particular State which is not so against the U. States. He cited the Rebellion of Bacon in Virginia as an illustration of the doctrine.

Doc<sup>r</sup> Johnson: That case would amount to Treason ag<sup>st</sup> the Sovereign, the supreme Sovereign, the United States—

M<sup>r</sup> King observed that the controversy relating to Treason might be of less magnitude than was supposed; as the legis-

lature might punish capitally under other names than Treason.

M<sup>r</sup> Gov<sup>r</sup> Morris and M<sup>r</sup> Randolph ["moved" <sup>wished</sup> stricken out] to substitute the words ["of the British Statute; and <sup>this</sup> on question" stricken out]

["N- H. Mas- no. C<sup>t</sup> no. N- Jersey. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N- C. no. S. C. no. Geo. no." stricken out]

of the British Statute and

<sup>moved</sup> to postpone Sect : art VII in order to consider the following substitute— "Whereas it is essential to the preservation of liberty to define precisely and exclusively what shall constitute the crime of Treason, it is therefore ordained, declared & established, that if a man do levy war ag<sup>t</sup> the U<sup>s</sup>. within their territories, or be adherent to the enemies of the U<sup>s</sup>. within the said territories, giving them aid and comfort within their territories or elsewhere, and thereof be provably attainted of open deed by the People of his condition, he shall be adjudged guilty of Treason"

On this question

N. H. Mas- no. C<sup>t</sup> no. N. J- ay P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N C no- S C no. Geo- no.

It was moved to strike out "ag<sup>t</sup> United States" after <sup>this</sup> "treason" so as to define treason generally— and on question

Mas. ay- C<sup>t</sup> ay. N- J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C ay. Geo. ay.

It was then moved to insert ["af" effaced] after "two witnesses" the words "to the same overt act".

Doc<sup>r</sup> Franklin wished this amendment to take place— prosecutions for treason were generally virulent; and perjury too easily made use of against innocence

M<sup>r</sup> Wilson. much may be said on both sides. Treason may sometimes be practised ["with" stricken out] in such a manner, as to render proof extremely difficult—as in a traitorous correspondence with an Enemy.

On the question—as to same overt act

N- H- ay- Mas- ay- C<sup>t</sup> ay. N. J. no- P<sup>a</sup> ay- Del- ay- M<sup>d</sup> ay. V<sup>a</sup> no- N. C. no- S. C. ay- Geo- ay-

M<sup>r</sup> King moved to insert before the word "power" the word <sup>& exclusive</sup> "sole", giving the U. States the exclusive right to declare the punishment of Treason.

M<sup>r</sup> Broom 2<sup>d</sup> the motion-

The words, of the British Statute <sup>this</sup> and on question and the vote, were first stricken out and over them was pasted a slip of paper containing the words from, "of the British Statute and to postpone", to and including the vote, here printed in small type.]

[This vote was first stricken out After wards the marks so striking it out were erased.]

M<sup>r</sup> Wilson in cases of a general nature, treason can only be ag<sup>st</sup> the U- States. and in such they sh<sup>d</sup> have the sole right to declare the punishment—yet in many cases it may be otherwise. The subject was however intricate and he distrusted his present judgment on it.

M<sup>r</sup> King this amendment results from the vote defining treason generally by striking out ag<sup>st</sup> the U. States; which excludes any treason ag<sup>st</sup> particular States. These may however punish offences as high misdemeanors.

On inserting the word "sole". It passed in the negative

N- H. ay- Mas- ay. C<sup>t</sup> no- N. J- no- P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no- V<sup>a</sup> no- N- C- no- S. C. ay- Geo- no.—["negatived" stricken out].

M<sup>r</sup> Wilson. the clause is ambiguous now. "Sole" ought either to have been inserted—or "against the U- S." to be reinstated.

M<sup>r</sup> King no line can be drawn between levying war and adhering to enemy—ag<sup>st</sup> the U. States and ag<sup>st</sup> an individual States—Treason ag<sup>st</sup> the latter must be so ag<sup>st</sup> ["the" written upon "both"] former.

M<sup>r</sup> Sherman, resistance ag<sup>st</sup> the laws of the U- States as distinguished from resistance ag<sup>st</sup> the laws of a particular State, forms the line-

M<sup>r</sup> Elsworth- the U. S. are sovereign on one side of the line dividing the["ir" stricken out] jurisdictions—the States on the other—each ought to have power to defend their respective Sovereignties.

M<sup>r</sup> Dickenson, war or insurrection ag<sup>st</sup> a member of the Union must be so ag<sup>st</sup> the whole body; but the Constitution should be made clear on this point.

The clause <sup>was</sup> reconsidered nem. con—& then, M<sup>r</sup> Wilson &



Mr Elseworth moved to reinstate "ag<sup>t</sup> the U. S.". after "Treason"—on which question

N- H- no- Mas. no. C<sup>t</sup> ay- N- J- ay- P<sup>a</sup> no- Del. no- M<sup>d</sup> ay- V<sup>a</sup> ay- N- C. ay- S- C- no- Geo. ay—

Mr M<sup>adison</sup>— was not satisfied with the footing on which the clause now stood. As treason ag<sup>t</sup> the U- States involves Treason ag<sup>t</sup> particular States, and vice versa, the same act may be twice tried & punished by the different authorities— Mr Gov<sup>r</sup> Morris viewed the matter in the same lights—

& 2<sup>d</sup> It was moved to amend the Sentence to read— "Treason ag<sup>t</sup> the U. S. shall consist only in levying war against them, or in adhering to their enemies" which was agreed to.

Col- Mason moved to insert the words "giving aid comfort" as restrictive of "adhering to their Enemies &c"— the latter he thought would be otherwise too indefinite— This motion was agreed to Con<sup>t</sup> Del. & Georgia only being in the Negative

Mr L. Martin— moved to insert after conviction &c—"or on confession in open court"—and on the question, (the negative States thinking the words superfluous) it was agreed to

N. H: ay- Mas- no- C<sup>t</sup> ay- N- J. ay- P<sup>a</sup> ay- Del. ay- M<sup>d</sup> ay- V<sup>a</sup> ay- N- C- div<sup>d</sup> S- C- no- Geo- no.

Art: VII. Sect- 2. as amended then agreed to nem- con.

Sect- 3- taken up. "white & other" struck out nem con. as superfluous.

Mr Elseworth moved to required the first census to be taken within "three" years from the first meeting of the Legislature—and on question

N- H- ay. Mas- ay C<sup>t</sup> ay- N J- ay- P<sup>a</sup> ay- Del. ay. M<sup>d</sup> ay V<sup>a</sup> ay- N- C- ay- S- C. no- Geo- no.

Mr King asked what was the precise meaning of direct taxation? No answ<sup>d</sup>

to add to the 3<sup>d</sup>. Sect. art. VII, the following clause "That from the first meeting of the Legislature of the U. S. until a Census shall be taken all monies for supplying

direct taxation should be regulated by the number of Representatives allowed to the States" stricken out]  
the public Treasury by direct taxation shall be raised from the several States according to the number of their Representatives respectively in the first branch "

M<sup>r</sup> Langdon. This would bear unreasonably hard on N. H. and he must be ag<sup>st</sup> it.

M<sup>r</sup> Carrol. opposed it. The number of Rep<sup>s</sup> did not admit of a proportion exact enough for a rule of taxation—

[“adj” effaced]  
 Before any question the House

Adjourned.

Tuesday August 21. In Convention

[The words from, “Tuesday”, to, “have power &c. take”, were first stricken out and over them was pasted a slip of paper containing the words from, “Governour Livingston”, to, “prescribed by the U. States”, following in small type]

[“Tuesday [‘Friday’ stricken out] August 21. in Convention  
 “Governour Livingston from the Grand Committee reported that the Gen<sup>l</sup> Legislature have power to fulfil the engagements of the U—S. entered into by Congress—and to discharge as well the debts of the U. S. as of the indiv<sup>l</sup> States incurred during the late war for the common defence and general welfare—to organize Militia &c. See Journal.  
 “That the Gen<sup>l</sup> Legislature have power &c. take” stricken out]

Governour Livingston, from the Committee of Eleven to whom was referred the propositions and also the Militia, respecting the debts of the several States, entered on the 18<sup>th</sup>. inst. delivered the following report:

“The Legislature of the U. S. shall have power to fulfil the engagements which have been entered into by Congress, and to discharge as well the debts of the U—S: as the debts incurred by the several States during the late war, for the common defence and general welfare”

“To make laws for organizing arming and disciplining the Militia, and for governing such part of them as may be employed in the service of the U—S reserving to the States respectively, the appointment of the officers, and the authority of training the Militia according to the discipline prescribed by the U. States”

M<sup>r</sup> Gerry considered giving the power only, without adopting the obligation, as destroying the security now enjoyed by the public creditors of the U—States. He enlarged on the merit of this class of citizens, and the solemn faith which had

been pledged under the existing Confederation. If their situation should be changed as here proposed great opposition would be excited ag<sup>st</sup> <sup>the</sup> plan— He urged also that as the States had made different degrees of exertion to sink their respective debts, those who had done most would be alarmed, if they were now to be saddled with a share of [“those” stricken out] the debts of States which had done least.

Mr Sherman. It means neither more nor less than the confederation as it relates to this subject.

Mr Elsworth moved that the Report delivered in by Gov<sup>r</sup> Livingston should lie on the table. Agreed to nem. con.

Art: VII. sect. 3. resumed.—Mr Dickenson moved to postpone this in order to reconsider Art: IV. sect. 4. and to limit the number of representatives to be allowed to the large States. Unless this were done the small States would be reduced to entire insignificancy, and encouragement given to the importation of slaves.

Mr Sherman would agree to such a reconsideration, but did not see the necessity of postponing the section before the House.—Mr Dickenson withdrew his motion.

Art: VII. sect 3. then agreed to 10 ays. Delaware alone being no.

Mr Sherman moved <sup>to add to sect 3, the following clause “and all accounts of</sup> [“that accounts for advances made by supplies furnished, services performed, and monies advanced by the several States to the U<sup>s</sup> States, U. S. to individual States and vice versâ be adjusted by the or by the U<sup>s</sup> S. to the several States shall be adjusted by the same rule” same rule as direct taxation” stricken out].

Mr Govern<sup>r</sup> Morris 2<sup>ds</sup> the motion.

Mr Ghorum, thought it wrong to insert this in the Constitution. The Legislature will no doubt do what is right. The present Congress have such a power and are now exercising it.

M<sup>r</sup> Sherman unless some rule be expressly given none will exist under the new system.

M<sup>r</sup> Elsworth. <sup>Though</sup> The contracts of Congress will be binding, <sup>be</sup> there will no rule for executing them on the States;— and one ought to be provided.

M<sup>r</sup> Sherman withdrew his motion to make way for one of M<sup>r</sup> Williamson to add to sect- 3. “By this rule [“shall be determined” stricken out] <sup>several</sup> the quotas of the States [“in <sup>shall be determined in</sup> finally” stricken out] Settling the expenses of the late war”-

M<sup>r</sup> Carrol brought into view the difficulty that might arise on this subject from the [“intended” stricken out] establishment of the Constitution [“without the” <sup>as intended</sup> stricken out] without the Unanimous consent of the States

M<sup>r</sup> Williamson’s motion <sup>was</sup> postponed nem. con.

Art: VI sect. 12. which had been postponed Aug: 15. <sup>now</sup> was [“not” stricken out] called for by Col. Mason. who wished to know how the proposed amendment as to money bills would be decided, before he agreed to any further points.

M<sup>r</sup> Gerry’s motion <sup>of yesterday</sup> that previous to a census, direct taxation be proportioned on the States according to the number of Representatives, was taken up- He observed that the principal acts of Government would probably take place within that period, and it was but reasonable that the States should pay in proportion to their share in them.

M<sup>r</sup> Elsworth thought such a rule unjust- there was a great difference between the number of Represent<sup>s</sup> and the number of inhabitants as a rule in this case. Even if the former were proportioned as nearly as possible to the latter, it would be a very inaccurate rule- A State might have one Representative only, that had inhabitants enough for 1<sup>1</sup>/<sub>2</sub> or more, if fractions could be applied- &c—. He pro-

the words "subject to a final liquidation by the foregoing rule when a census shall be taken" posed to amend the motion by adding ["a proviso that the stricken out] have been taken".

apportionments so made sh<sup>d</sup> be subject finally to a liquidation according to the rule laid down in the Section [Art VII sect. 3.] "stricken out]

M<sup>r</sup> ["M" stricken out]<sup>Madison</sup>—The last appointment of Cong<sup>s</sup>, on which the number of Representatives was founded, was conjectural and meant only as a temporary rule till a Census should be established.

M<sup>r</sup> Read. The requisitions of Cong<sup>s</sup> had been accommodated to the the impoverishments produced by the war; and to other local and temporary circumstances—

M<sup>r</sup> Williamson opposed M<sup>r</sup> Gerry's motion

M<sup>r</sup> Langdon was not here when N. H. was allowed three members. If it was more than her share; he did not wish for them.

M<sup>r</sup> Butler contended warmly for M<sup>r</sup> Gerry's motion as founded in reason and equity.

M<sup>r</sup> Elsworth's ["amendment subjecting" stricken out] proviso to M<sup>r</sup> Gerry's motion <sup>was</sup> agreed to nem con.

M<sup>r</sup> King thought the power of taxation given to the Legislature rendered the motion of M<sup>r</sup> Gerry altogether unnecessary.

On M<sup>r</sup> Gerry's motion as amended

N- H- ["no" written upon "ay"] Mas- ay. C<sup>t</sup> [<sup>no</sup> "ay." stricken out] N- J- no. P<sup>a</sup> no- Del. no- M<sup>d</sup> no- V<sup>a</sup> no- N- Ci- div<sup>d</sup> S- C. ay. Geo. no-

On a question Shall art: VI sect. 12 with the ["proposed" stricken out] <sup>proposed & entered on the 15 instant</sup> amendment to it, as called for by Col Mason be now taken up? it passed in the Negative

N. H. ay- Mas- no- C<sup>t</sup> ay- N- J- no- P<sup>a</sup> no- Del- no- M<sup>d</sup> ay. V<sup>a</sup> ay. N- C- ay- S- C- no- Geo. no-

M<sup>r</sup> L. Martin. The power of taxation is most likely to be criticised by the public. Direct taxation should not <sup>be</sup> used but in cases of absolute necessity; and then the States will be

[The words from "best judges", to "within the time fixed." were first stricken out and over them was pasted a slip of paper containing the words from, "best judges", to, "the collection of the same", here following in small type.]

[“best judges of the mode. He therefore moved ‘that the Gen<sup>l</sup> Legislature sh<sup>d</sup> not exercise this power till requisitions be [“made” stricken out] first made on the States and [“not” stricken out] <sup>fail to be</sup> supplied, within the time fixed.’” stricken out]

best Judges of the mode. He therefore moved the following addition to sect. 3. Art. VII “And whenever the Legislature of the U: S: shall find it necessary that revenue should be raised by direct taxation, having apportioned the same, according to the above rule on the [‘States’ stricken out] several States,—requisitions shall be made of the respective States to pay into the Continental Treasury their respective quotas within a time in the said requisitions specified; and in case of any of the States failing to comply with such requisitions, then and then only to devise and pass acts directing the mode, and authorizing the collection of the same”

M<sup>r</sup> M<sup>c</sup>Henry 2<sup>ded</sup> the motion—there was no debate, and on the question

N- H- no- [“Mas” stricken out] C<sup>t</sup> no. N- J- ay. Pen<sup>a</sup> no- Del. no- M<sup>d</sup> div<sup>d</sup> (Jenifer & Carrol no)-V<sup>a</sup> no. N- C- no- S. C- no. Geo. no-

Art. VII. sect. 4.—M<sup>r</sup> Langdon. by this [“article” stricken out] section the States are left at liberty to tax exports. N. H. therefore [“and” stricken out] <sup>with</sup> other non-exporting States, will be subject to be taxed by the States exporting its produce. This could not be admitted. It seems to be feared that the Northern States will oppress the trade of the South” This may be guarded ag<sup>st</sup> by requiring the concurrence of  $\frac{2}{3}$  or  $\frac{3}{4}$  of the legislature in such cases.

M<sup>r</sup> Elsworth— It is best as it stands— The power of regulating trade between the States will protect them ag<sup>st</sup> each other— Should this not be the case, the attempts of one to tax the produce of another passing through its hands, will force a direct exportation and defeat themselves— There are solid reasons ag<sup>st</sup> Cong<sup>s</sup> taxing exports. 1. it will dis-



courage industry, as taxes on imports discourage luxury. 2. The produce of different States such as to prevent uniformity in such taxes. there are indeed but a few articles that could be taxed at all; as Tob<sup>o</sup> rice & indigo, and a tax on these alone would be partial & unjust. 3. The ["power of" stricken out] taxing of exports would engender incurable jealousies.

M<sup>r</sup> Williamson. Tho' N- C. has been taxed by Virg<sup>a</sup> by a duty on 12,000 Hhs ["of Tob<sup>o</sup>" stricken out] of her Tob<sup>o</sup> thro' Virg<sup>a</sup> yet he would never agree to this power. Should it take ["it" stricken out] take place, it would destroy the last hope ["of an adoption" stricken out] of an adoption of the plan.

M<sup>r</sup> Gov<sup>r</sup> Morris. These local considerations ought not to impede the general interest. There is great weight in the argument, that the exporting States will tax the produce of their uncommercial neighbours. The power of regulating <sup>the</sup> trade between P<sup>a</sup> & N. Jersey will never prevent the former from taxing the latter. Nor will such a tax force a direct exportation from N- Jersey- The advantages possessed by a large trading City, outweigh the disadvantage of a moderate duty; and will retain the trade in that channel— If no tax can be laid on exports, an embargo cannot <sup>be laid,</sup> though in time of war such a measure may be of critical importance— Tobacco, lumber, and live-stock are three objects belonging to different States, of which great advantage might be made <sup>by a power to tax exports</sup> — To these may be added Ginseng and Masts for Ships <sup>by</sup> which a tax might be thrown on other nations. The idea of supplying the West Indies with lumber from Nova Scotie, is one of the many follies of lord Sheffield's pamphlets. The State of the Country <sup>also,</sup> will change, and render duties on exports, as skins,

beaver & other peculiar raw materials, politic in the view of encouraging American Manufactures.

M<sup>r</sup> Butler was strenuously opposed to a power over exports; as unjust and alarming to the staple States.

M<sup>r</sup> Langdon suggested a prohibition on the States from taxing the produce of other States exported from their harbours.

M<sup>r</sup> Dickenson. The power of taxing exports may be inconvenient at present; but it must be of dangerous consequence to prohibit it [<sup>with respect</sup> "as" stricken out] to all articles and for ever. He thought it would be better to except particular articles from the power.

M<sup>r</sup> Sherman— It is best to prohibit the National legislature in all cases. The States will never give up all power over trade. An enumeration of <sup>particular</sup> articles would be difficult [<sup>ind</sup> "ind" stricken out] invidious and improper.

M<sup>r</sup> Madison As we ought to be governed [<sup>in the enactment</sup> "in the enactment" stricken out] by national and permanent views, it is a sufficient argument for giving y<sup>e</sup> power over exports that a tax, tho' it may not be expedient at present, may be so hereafter. [<sup>the</sup> "for general good of the Union" stricken out]—<sup>proper</sup> A <sup>proper</sup> regulation of exports may & probably will be necessary hereafter, and for the same purposes <sup>the regulation of-</sup> as <sup>viz,</sup> imports; for revenue — domestic manufactures — and procuring equitable [<sup>dealing</sup> "dealing" stricken out] regulations from other nations. An Embargo may be of absolute necessity, and can alone be effectuated by the Gen<sup>l</sup> authority. The regulation of trade between State and State [<sup>can not effect more</sup> "could not", illegible word, "effect more in any way than to defeat attempts" stricken out] <sup>than indirectly to</sup> hinder a State from taxing its own exports; by [<sup>declaring</sup> "declaring its" stricken out] authorizing its Citizens to carry ["it"

stricken out] <sup>their commodities</sup> freely into a neighbouring State which might decline taxing exports in order to draw into its channel the trade of its neighbours— As to the fear of disproportionate burdens on the <sup>more</sup> exporting States, it might be remarked that it was agreed on all hands that the revenue w<sup>d</sup> principally be drawn from trade, and as only a given revenue would be needed, it was not material whether all should be drawn <sup>wholly</sup> from imports—[“and” stricken out] <sup>or</sup> half from those, and half from exports— <sup>be</sup> The imports and exports must pretty nearly equal in every State—and relatively the same among the different States.

Mr Elseworth did not conceive an embargo by the Congress interdicted by this section.

Mr Mc Henry conceived that power to be included in the power of war.

Mr Wilson. Pennsylvania exports the produce of Maryland, N. Jersey, Delaware & will by & by when the River Delaware is opened, export for N- York. In favoring the general power [illegible word stricken out] over exports therefore, he opposed the particular interest of his State. He remarked that the power had been attacked by reasoning which could only have held good in case the Gen<sup>l</sup> Gov<sup>t</sup> had been compelled, instead of authorized, to [“exercise it” stricken out]. <sup>lay duties on exports.</sup> <sup>power</sup> To deny this is to take [“half” stricken out] from the Common Gov<sup>t</sup> half the regulation of trade— It was his opinion that a power over exports might be more effectual than that over imports in obtaining beneficial treaties of commerce

Mr Gerry was strenuously opposed to the power over exports. It might be made use of to compel the States to comply with the will of the Gen<sup>l</sup> Government, and to grant it any new powers which might be demanded— We have

given it more power already than we know how will be exercised— It will enable the Gen<sup>l</sup> Gov<sup>t</sup> to oppress the States, as much as Ireland is oppressed by Great Britain.

M<sup>r</sup> Fitzimmons would be ag<sup>st</sup> a tax on exports to be laid immediately; but <sup>was</sup> for giving a power of laying <sup>the tax</sup> when a proper time may call for it— This would certainly be the case when America should become a manufacturing country— He illustrated his argument by the duties in G— Britain on wool &c.

Col. Mason— If he were for reducing the States to mere corporations as seemed to be the tendency of some arguments, he should be for subjecting their exports as well as imports <sup>a power of</sup> to general taxation— He went on [“the principle <sup>a principle often advanced &</sup> that” stricken out] in which he concurred, that “a majority when interested will oppress the minority”. This maxim had been verified by our own Legislature [of Virginia]. If we compare the States in this point of view the 8 Northern States have an interest different from the five South<sup>n</sup> States,— and have in one branch of the legislature 36 votes ag<sup>st</sup> 29. and in the other, [“as” stricken out] <sup>in the proportion of</sup> 8 ag<sup>st</sup> 5. The Southern States had therefore ground for their suspicions. The case of Exports was not the same with that of imports. The latter were the same throughout the States: the former very different. As to Tobacco other nations do raise it, and are capable of raising <sup>it</sup> as well as Virg<sup>a</sup> &c. The impolicy of taxing that article had been demonstrated by the experiment of Virginia—

M<sup>r</sup> Clymer remarked that every State might reason with regard to its particular productions, in the same manner as the Southern States. The middle States may apprehend [“a danger” stricken out] an oppression of their wheat flour, pro-

visions, &c. and with more reason, as these articles were exposed to a competition in foreign markets not incident to Tob<sup>o</sup> rice &c— They may apprehend also combinations ag<sup>st</sup> them between the Eastern & Southern States as much as the latter can apprehend them between the Eastern & middle— He ["would therefore" stricken out] moved as a qualification of the power of taxing Exports that it should be restrained to regulations of trade, [<sup>by inserting after the word "duty" Sect 4 art VII the words</sup> "and not extended to" stricken out] "for the purpose of revenue."

<sup>on Mr. Clymer's motion</sup> On Question ["to agree to Sect. 4 [art VII—]" stricken out]

N. H— no— Mas. no. ["Mas. ay ay." stricken out] C<sup>t</sup> no.

N. J— ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N— C. no. Geo. no.

Mr. Madison, [<sup>In order to</sup> "moved to" stricken out] require  $\frac{2}{3}$  of each House to tax exports—as a lesser evil than a total prohibition, <sup>moved to insert the words "unless by consent of two thirds of the Legislature"</sup> M<sup>r</sup> Wilson 2<sup>ds</sup> and on this question, it passed in the Negative.

N. H. ay. Mas— ay. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. [<sup>Col. Mason, Mr. Randolph Mr. Blair no</sup> Gen<sup>l</sup> Washington & J. M. ay. <sup>as far as to</sup>] N. C. no. S— C. no. Geo. no.

Question on sect: 4. art VII. "no tax sh<sup>l</sup> be laid on exports— <sup>affirmative-</sup> It passed in the ["negative" stricken out]

N. H. no. Mas. ay. C<sup>t</sup> ay. N— J. no. P<sup>a</sup> no— Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay [Gen<sup>l</sup> W. & J. M. no.] N. C. ay. S. C. ay. Geo— ay.

M<sup>r</sup> L— Martin, proposed to ["strike out the clause restraining" <sup>vary the sect 4 art VII so as to allow</sup> stricken out] a prohibition [<sup>or tax on</sup> "of" stricken out] the importation of slaves. 1. As five slaves are to be counted as 3 free men in the apportionment of Representatives; such a clause w<sup>d</sup> leave an encouragement to this trafic. 2 slaves weakened one part of the Union which the other parts were bound to protect: the privilege of importing them was therefore unreasonable— 3. it was inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution.

Mr Rutledge did not see how the importation of slaves <sup>could</sup> be encouraged by this section. He was not apprehensive of insurrections and would readily exempt the other States from <sup>the obligation to protect the Southern against them.</sup> ["being protected ag<sup>st</sup> them" stricken out].—Religion & humanity had nothing to do with this question— ["It" stricken out] Interest alone is the governing principle with Nations— The true question at present is whether the South<sup>n</sup> States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.

Mr Elsworth was for leaving the clause as it stands. let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves— What enriches a part enriches the whole, and the States are the best judges of their particular interest. ["Was this a matter" stricken out] The old confederation had not meddled with this point, and he did not see any <sup>greater</sup> necessity for bringing it within the policy of the new one:

Mr Pinkney. ["South" written upon "North"] Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress, that State has expressly & watchfully excepted that of meddling with the importation of negroes— If the States be all left at liberty on this subject, S. Carolina may perhaps by degrees do of herself what is wished, as Virginia & Maryland have <sup>already</sup> done.

Adjourned



Wednesday August 22. in Convention

Art. VII sect 4. resumed. M<sup>r</sup> Sherman was for leaving the clause as it stands. He disapproved of the slave trade: yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, & as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the U. S. & that the good sense of the several States would probably by degrees compleat it. He urged on the Convention the necessity of despatching its business.

Col. Mason. This infernal trafic originated in the avarice of British Merchants. The British Gov<sup>t</sup> ["have" stricken out] constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the Enemy, they would have proved dangerous instruments in their hands. But their folly dealt by the slaves, ["as" written upon "it"] it did by the Tories. He mentioned the dangerous insurrections of the slaves in Greece and Sicily; and the instructions given by Cromwell to the Commissioners sent to Virginia, to arm the servants & slaves, in case other means of obtaining its submission should fail. Maryland & Virginia he said had already prohibited the importation of slaves ["of" stricken out] expressly. N. Carolina had done the same in substance. All this would be in vain if S. Carolina & Georgia ["be" stricken out] <sup>be</sup> at liberty to import. The Western people are already calling out for

slaves for their new lands; and will fill that Country with slaves if they can be got thro' S. Carolina & Georgia. Slavery discourages arts & manufactures. The poor despise labor when performed by slaves. They prevent ["ed" stricken out] the immigration of Whites, who really enrich & strengthen a Country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the Gen<sup>l</sup> Gov<sup>t</sup> should have a power to prevent the increase of slavery.

M<sup>r</sup> Elsworth. As he had never owned a slave could not judge of the effects of slavery on character. He said however that if it was <sup>to be</sup> considered in a moral light we ought to go farther and free those already in the Country.—As slaves also multiply <sup>so</sup> fast in Virginia & Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary, if we go no farther than is urged, we shall be unjust towards S. Carolina & Georgia—Let us not intermeddle. As population increases; poor laborers will be so plenty as to render slaves useless. <sup>["This Slaves" stricken out] Slavery</sup> ["Slavery" stricken out] in time will not be a speck in our Country. Provision is already made in Connecticut for abolishing it. And the abolition has already

taken place in Massachusetts. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

Mr Pinkney— If slavery be wrong, it is justified by the example of all the world. He cited the case of Greece Rome & other antient States; the sanction given by France England, Holland & other modern States. In all ages one half of mankind have been slaves. If the S. States were let alone they will probably of themselves stop importations .  
He wd. himself as a Citizen of S. Carolina vote for it.  
 An attempt to take away the right as proposed will produce serious objections to the Constitution which he wished to see adopted.

General Pinkney declared it to be his firm opinion that if himself & all his colleagues were to sign the Constitution & use their personal ["interest" stricken out] influence, it would be of no avail towards obtaining the assent of their Constituents. S. Carolina & Georgia cannot do without slaves. As to Virginia she will gain by stopping the importations. Her slaves will rise in value, & she has more than she wants. It would be unequal to require S. C. & Georgia to confederate on such unequal terms. He said the Royal assent before the Revolution had never been refused to S. Carolina as to Virginia. He contended that the ["slave trade" stricken out] importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; The more consumption also, and the more of this, the more of revenue for the common treasury. He admitted it to be reasonable that slaves should be duties like other imports, but should consider a rejection of the clause as an exclusion of S. Carol<sup>a</sup> from the Union.

Mr Baldwin had conceived national objects alone to be before the Convention, not such as like the present were ["merely" stricken out] of a local nature. Georgia was decided on this point. That State has always <sup>hitherto</sup> supposed a Gen<sup>l</sup> Govern<sup>t</sup> to be the pursuit of the central States who wished to have a vortex for every thing—that her distance would preclude her from equal advantage—& that she could not prudently purchase it by yielding national powers. From this it might be understood in what light she would view an attempt to abridge one of her ["favorite" stricken out] favorite prerogatives. If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of \_\_\_\_\_ which he said was a respectable class of people, who carried their ethics beyond the mere equality of men, extending their humanity to the claims of the whole animal creation.

Mr Wilson observed that if S. C. & Georgia were themselves disposed to get rid of the importation <sup>of slaves in a short time</sup> as had been suggested, they would never refuse to ["sign the" stricken out] Unite because the importation might be prohibited. As the Section now stands all articles imported ["are to" stricken out] are to be taxed. Slaves alone are exempt. This is in fact a bounty on that article.

Mr Gerry thought we had nothing to do with the conduct of the States as to Slaves, but ought to be careful not to give any sanction to it.

Mr Dickenson considered it as inadmissible on every principle of honor & safety that the importation of slaves should be authorized <sup>to the States</sup> by the Constitution. The true question was whether the national happiness would be promoted or impeded by the importation, and this question ought to be left to the

National Gov<sup>t</sup> not to the States particularly interested. If Eng<sup>d</sup> & France permit slavery, slaves are at the same time excluded from both those Kingdoms. Greece and Rome were made unhappy by their slaves. He could not believe that the South<sup>n</sup> States would refuse to confederate [“for the reason on account” stricken out<sup>on the account</sup>] apprehended; especially as the power was not likely to be immediately exercised by the Gen<sup>l</sup> Government.

Mr Williamson stated the law of N. Carolina on the subject, to wit that it did not directly prohibit the importation of slaves. It imposed a duty of £5. on each slave imported from Africa. £10. on each from elsewhere, & £50 on each from a State licensing manumission. He thought the S. States could not be members of the Union if the clause should be rejected, and that it was wrong to force any thing down, not absolutely necessary, [“and likely to be disagreed to by” stricken out<sup>and which</sup>] any State must disagree to.

Mr King thought the subject should be considered in a political light only. If two States will not agree to the Constitution as stated on one side, he could [“could” stricken out] affirm with equal belief on the other, that great & equal opposition would [“come” stricken out] be experienced from the other States. He remarked on the exemption of slaves from duty whilst every other import was subjected<sup>to it</sup>, as an inequality that could not fail to strike the commercial sagacity of the North<sup>n</sup> & middle States.

Mr Langdon was strenuous for giving the power to the Gen<sup>l</sup> Gov<sup>t</sup>. He c<sup>d</sup> not with a good conscience leave the States<sup>it with</sup> who could then go on with the traffic, without being restrained by the opinions here given that they will themselves cease to import slaves.

Gen<sup>l</sup> Pinkney thought himself bound to declare candidly that he did not think S. Carolina would stop her importations of slaves in any short time, but only stop them occasionally as she now does. He moved to commit the clause that slaves might be made liable to an equal tax with other imports which he he thought right & w<sup>ch</sup> w<sup>d</sup> remove one difficulty that had been started.

M<sup>r</sup> Rutledge. If the Convention thinks that N. C; S. C. & Georgia will ever agree to the plan, unless ["free" stricken out] their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. He was strenuous ag<sup>st</sup> striking out the Section, and seconded the motion of Gen<sup>l</sup> Pinkney for ["a" written upon "the"] commitment.

M<sup>r</sup> Gov<sup>r</sup> Morris ["asked whether" stricken out] wished the whole subject to be committed including the clauses relating to taxes on exports & to a navigation act. These things may form a bargain among the Northern & Southern States.

M<sup>r</sup> Butler declared that he never would agree to the power of taxing exports.

M<sup>r</sup> Sherman said it was better to let the S. States import slaves tha["n" written upon "t"] to part with them, if they made that a *sine qua non*. He was opposed to a tax on slaves imported as making the matter worse, because it implied they were property. He acknowledged that if the power of prohibiting the importation should be given to the Gen<sup>l</sup> Government that it would be exercised. He thought it would be its duty to exercise the power.

M<sup>r</sup> Read was for the commitment provided the clause concerning taxes on exports should also be committed.



Mr Sherman observed that that clause had been agreed to & therefore could not be committed.

Mr Randolph was for committing in order that some middle ground might, if possible, be found. He could never agree to the clause as it stands. He w<sup>d</sup> sooner risk the constitution— He dwelt on the dilemma to which the Convention was exposed. By agreeing to the clause, it would revolt the Quakers, the Methodists, and many others in the States having no slaves. On the other hand, two States might be lost to the Union. Let us then, he said, try the chance of a commitment.

On the question for committing the remaining part of Sect. 4 & 5. of art: 7. N. H. no. Mas. abs<sup>t</sup> Con<sup>t</sup> ay N. J. ay Pa<sup>a</sup> no. Del. no Mary<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay S. C. ay. Geo. ay.

Mr Pinkney & Mr Langdon moved to commit sect. 6. as to a navigation act <sup>by</sup> two thirds of each House.

Mr Gorham did not see the propriety of it. Is it meant to require a greater proportion of votes, [“than a majority” stricken out]? He desired it to be remembered that the Eastern States had no motive to Union but a commercial one. They were able to protect themselves. They were not afraid of external danger, and did not need the aid of the South<sup>n</sup> States.

Mr Wilson wished for a commitment in order to reduce the proportion of votes required.


Mr Elsworth was for taking the plan [“as” written upon “it”] it is. This widening of opinions had a threatening aspect. If we do not agree on this middle & moderate ground he was afraid we should lose two States, with such others as may be disposed to stand aloof, should fly into a variety of shapes & directions, and most probably into several confederations and not without bloodshed.

On Question for committing 6 sect. as to navigation  
["along with the 4 & 5" stricken out] Act  
 to a member from each State—N. H. ay—Mas. ay. C<sup>l</sup> no.  
 N. J. no. Pa<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay.  
 Geo. ay.

The Committee appointed were M<sup>r</sup> Langdon, King, Johnson, Livingston, Clymer, Dickenson, L. Martin, Madison, Williamson, C. C. Pinkney, & Baldwin.

To this committee were referred <sup>also</sup> the two clauses above mentioned, of the 4 & 5. sect: of art. 7.

M<sup>r</sup> Rutledge, from the Committee to whom were referred on the 18 & 20<sup>th</sup> instant the propositions of M<sup>r</sup> Madison & M<sup>r</sup> Pinkney, made the Report following.—

 [Here insert———<sup>from</sup> ["See" stricken out] the Report ["in" stricken out] the Journal of the Convention of this date.]—

A motion to rescind the order of the House respecting the hours of meeting & adjourning, was <sup>Mass: Pa. Del. Mar<sup>d</sup>. . . . . ay</sup> negatived:

M<sup>r</sup> Gerry & M<sup>r</sup> McHenry moved to insert after the 2<sup>d</sup> sect. <sup>N. H. Con: N. J. Va, N. C. S. C. Geo. no</sup> art: 7. the clause following, to wit, "The Legislature shall pass no bill of attainder nor <sup>any</sup> ex post facto law"\*

M<sup>r</sup> Gerry urged the necessity of this prohibition, which he ["was" stricken out] said was greater in the National than the State Legislature, because the number of members in the former being fewer, they were on that account the more to be feared.

M<sup>r</sup> Gov<sup>r</sup> Morris thought the precaution as to ex post facto laws unnecessary; but essential as to bills of attainder

M<sup>r</sup> Elsworth contended that there was no lawyer, no civilian who would not say that ex post facto laws were void of themselves. It cannot then be necessary to prohibit them.

<sup>the</sup>  
 \*the proceedings on this motion involving two questions on "attainders & ex post facto laws." are not so fully stated in the printed Journal.

Mr Wilson was against inserting anything in the Constitution as to ex post facto laws. It will bring reflexions on the Constitution—and proclaim that we are ignorant of the first principles of Legislation, or are constituting a Government which will be so.

The question being <sup>divided.</sup> The first part of the motion relating to bills of attainder was agreed to nem. contradicente.

On the second part relating to ex post facto laws—

Mr Carrol remarked that experience overruled all other calculations. It had proved that in whatever light they might be viewed by civilians or others, the State Legislatures had passed them, and they had taken effect.

Mr Wilson. If these prohibitions in the State Constitutions have no effect, it will be [<sup>useless to</sup> “needless to” stricken out] insert them in this Constitution. Besides, [<sup>both sides</sup> “though both sides of the House w” stricken out] will agree to the principle [“&” written upon “they”] will differ as to its application.

Mr Williamson. Such a prohibitory clause is in the Constitution of N. Carolina, and tho it has been violated, it has done good there & may do good here, because the Judges can take hold of it

Doc<sup>r</sup> Johnson thought the clause unnecessary, and implying an improper suspicion of the National Legislature.

Mr Rutledge was in favor of the clause.

On the question for inserting the prohibition of ex post facto laws.

N— H— ay— Mas. ay. Con<sup>t</sup> no. N. J— no. Pa no. Del— ay. Md<sup>d</sup> ay. Virg<sup>a</sup> ay N— C. div<sup>d</sup> S. C. ay— Geo. ay.

The report of the committee of 5. made by Mr Rutledge, was taken up & then postponed that each member Might furnish himself with a copy.

The Report of the Committee of Eleven delivered in & entered on the Journal of the 21<sup>st</sup> inst. was then taken up. and the first clause containing the words "The Legislature of the U. S. shall have power to fulfil the engagements which have been entered into by Congress" being under consideration,

M<sup>r</sup> Elsworth argued that they were unnecessary. The U-S- heretofore <sup>entered</sup> into Engagements by Cong<sup>s</sup> who were their Agents. They will hereafter be bound to fulfil them by their new agents.

M<sup>r</sup> Randolph thought such a provision necessary; for though the U. States will be bound, the new Gov<sup>t</sup> will have no authority ["unless" stricken out] in the case unless it be given to them.

M<sup>r</sup> Madison thought it necessary to give the authority in order to prevent misconstruction. He mentioned the attempts made by the Debtors to British subjects to shew that contracts under the old Government, were dissolved by the Revolution which destroyed the political identity of the Society.

M<sup>r</sup> Gerry thought it essential that some explicit provision should be made on this subject, so that no pretext might remain for getting rid of the public engagements.

M<sup>r</sup> Gov<sup>r</sup> Morris moved by way of amendment to substitute—"The Legislature shall discharge the debts & fulfil <sup>[""] stricken out]</sup> the engagements of the U. States".

It was moved to vary the amendment by striking out "discharge the debts" & to insert "liquidate the claims", which being negatived,

The amendment moved by M<sup>r</sup> Gov<sup>r</sup> Morris was agreed to all the States being in the affirmative.

It was moved & 2<sup>d</sup> to strike the following words—out of the 2<sup>d</sup> clause of the report “and the authority of training the Militia according to the discipline prescribed by the U- S.”

Before a question was taken

The House adjourned

Thursday  
In Convention Aug: 23. 1787

The Report of the Committee of Eleven made Aug. 21. being taken up, and the following clause being under consideration to wit “To make laws for organizing, arming & disciplining the Militia, and for governing such parts of them as may be employed in the service of the U. S. reserving to the States respectively, the appointment of the officers, and authority of training the militia according to the discipline prescribed”—

Mr Sherman moved to strike out the last member—“and authority of training &c. He thought it unnecessary. The States will have this authority of course if not given up.

Mr Elsworth doubted the propriety of striking out the sentence. The reason assigned applies as well to the other reservation of the appointment [“to” written upon “of”] offices. He remarked at the same time that the term discipline was of vast extent and might be so expounded as to include all power on the subject.

Mr King, by way of explanation, said that by organizing the Committee meant, proportioning the officers & men—by arming, specifying the kind size and caliber of arms [illegible words stricken out]—& by disciplining prescribing the manual exercise evolutions &c.

Mr Sherman withdrew his motion

Mr Gerry, This power in the U- S. as explained is making

the States drill-sergeants. He had as lief let the Citizens of Massachussets be disarmed, as to take the command from the States, and subject them to the Gen<sup>l</sup> Legislature. It would be regarded as a system of Despotism.

M<sup>r</sup> Madison observed that "arming" as explained did not did not extend to furnishing arms; ["He suggested the inquiry also how far the" stricken out] <sup>nor</sup> the term "disciplin- ing" to penalties & Courts martial for enforcing them.

M<sup>r</sup> King added, to his former explanation that arming meant not only to provide for uniformity of arms, but included authority to regulate the modes of furnishing, either by the militia themselves, the State Governments, or the National Treasury: that laws for disciplining, must involve penalties and every thing necessary for enforcing ["them" stricken out] penalties.

M<sup>r</sup> Dayton moved to postpone the paragraph, in order to take up the following proposition ["To est" effaced]

"To establish an uniform & general system of discipline for the Militia of these States, and to make laws for organizing, arming, disciplining & governing such part of them as may be employed in the service of the U. S., reserving to the States respectively the appointment of the officers, and all authority over the Militia not herein given to the General Government"

On the question to ["agree to this" stricken out] postpone in favor of this proposition: it passed in the Negative

N. H. no. Mas- no. C<sup>t</sup> no. N. J. ay. P. no. Del. no. Mary<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. ay.

M<sup>r</sup> Elsworth & M<sup>r</sup> Sherman moved to postpone the 2<sup>d</sup> clause in favor of the following

"To establish an uniformity of arms, exercise & organiza-



tion for the Militia, and to provide for the Government of them when called into the service of the U. States”

The object of this proposition was to refer the plan for the Militia to the General Gov<sup>t</sup> but leave the execution of it to the State Gov<sup>ts</sup>

M<sup>r</sup> Langdon said He could not understand the jealousy expressed by some Gentleman. The General & State Gov<sup>ts</sup> were not enemies to each other, but different institutions for the good of the people of America. As one of the people he could say, the National Gov<sup>t</sup> is mine, the State Gov<sup>t</sup> is mine— In transferring power from one to the other— I only take out of my left hand what it cannot so well use, and put it into my right hand [“which can use it” stricken out] where it can be better used.

M<sup>r</sup> Gerry thought it was rather taking out of the right hand & putting it into the left. Will any man say that liberty [“is” stricken out] <sup>will be</sup> as safe in the hands of eighty or an hundred men taken from the whole continent, as in the hands of two or three hundred taken from a single State?

M<sup>r</sup> Dayton was against so absolute a uniformity. In some States there ought to be a greater proportion of cavalry than in others. In <sup>some</sup> places rifles would be most proper, in others muskets &c—

Gen<sup>l</sup> Pinkney preferred the clause reported by the Committee, extending the meaning of it to the case of fines &c—

M<sup>r</sup> Madison. The primary object is to secure an effectual discipline of the Militia. This will no more be done if left to the States separately than the requisitions have been hitherto paid by them. The States neglect their Militia now, and the more they are consolidated into one nation, the less each will rely on its own interior provisions for its safety in like  
& the less prepare its Militia for th<sup>t</sup> purpose.

manner as the Militia of a State would have been still more neglected than it has been if each County had been independently charged with the care of its Militia. The Discipline of the Militia is evidently a National concern, and ought to be provided for in the National Constitution.

M<sup>r</sup> L— Martin was confident that the States would never give up the power over the Militia; and that, if they were <sup>to do so,</sup> the militia would be less attended to by the Gen<sup>l</sup> than by the State Governments.

M<sup>r</sup> Randolph asked what danger there could be that the Militia could be brought into the field and made to commit suicide on themselves. This is a power that cannot from its nature be abused, unless indeed the whole mass should be corrupted. He was <sup>for</sup> trammelling the Gen<sup>l</sup> Gov<sup>t</sup> whenever there was danger. but here there could be none— He urged this as an essential point; observing that the Militia were every where neglected by the State Legislatures, the members of which courted popularity too much to enforce a proper discipline. Leaving the appointment of officers to the States [“Gov<sup>ts</sup>” stricken out] protects the people ag<sup>st</sup> every apprehension that could produce murmur.

On Question on M<sup>r</sup> Elsworth's Motion

N. H. no. Mas— no— C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no— N— C. no. S. C. no. Geo. no.

A motion was then made to recommit the 2<sup>d</sup> clause which was negatived.

On the question to agree to the 1<sup>st</sup> part of the clause, namely  
 “To make laws for organizing arming & disciplining the Militia, and for governing such part of them as may be employed in the service of the U. S”.

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N— C— ay. S. C. ay. Geo. ay.

Mr Madison moved to amend the ["remaining" stricken out]<sup>next</sup> part of the clause so as to read "reserving to the States respectively, the appointment of the officers, under the rank of General officers."

Mr Sherman considered this as ["highly" stricken out] absolutely inadmissible. He said that if the people should be so far asleep as to allow the Most influential officers of the Militia to be appointed by the Gen<sup>l</sup> Government, every man of discernment would rouse them by sounding the alarm to them—

Mr Gerry. Let us at once destroy the State Gov<sup>ts</sup> have an Executive for life or hereditary, and a proper Senate, and then there<sup>would</sup> ["ought perhaps" stricken out] be some consistency in giving full powers to the Gen<sup>l</sup> Gov<sup>t</sup> but as the States are not to be abolished, he wondered at the attempts that were made to give powers inconsistent with their existence. He warned the Convention ag<sup>st</sup> pushing the experiment too far. Some people will support a plan of vigorous Government at every risk. Others of a more democratic cast will oppose it with equal determination. And a Civil war may be produced by the conflict.

Mr Madison. As the greatest danger is that of disunion of the States, it is necessary to guard ag<sup>st</sup> it by sufficient powers to the Common Gov<sup>t</sup> and as the greatest danger to liberty is from ["a" stricken out] large standing armies, it is [illegible word, "of" stricken out] best to prevent them by an effectual provision for a good Militia—

On the Question to agree to Mr Madison's motion

N- H- ay- Mas- no- C<sup>t</sup> no- N- J- no- P<sup>a</sup> no- Del- no- M<sup>d</sup> no- V<sup>a</sup> no- N- C- no- S- C- ay- Geo- \*ay.

\*In the printed Journal - Geo. no

On the question to agree to the “reserving to the States the appointment of the officers”. It was agreed to nem: contrad:

On the question [“to the following” stricken out<sup>on the</sup>] clause “and the authority [“of” written upon “to”] training the Militia according to the discipline prescribed by the U. S”—

N. H. ay. Mas. ay. C<sup>t</sup> ay—N—J— ay. P<sup>a</sup> ay— Del. no. M<sup>d</sup> ay. V<sup>a</sup> no— N— C. ay. S. C. no. Geo. no—

On the question to agree Art. VII— sect. 7. It passed<sup>as reported</sup> nem: [“contrad” stricken out.]

M<sup>r</sup> Pinkney urged the necessity of preserving foreign Ministers & other officers of the U. S. [“for” stricken out] independent of external influence and moved to insert— after Art VII sect 7. the clause following—“No person holding any office of profit or trust under the U. S. shall without the consent of the Legislature, accept of any present, emolument, office or title of any kind whatever, from any King, Prince or foreign State which passed nem: contrad.

M<sup>r</sup> Rutledge moved to amend [“the” stricken out] Art: VIII to read as follows,

“This Constitution & the laws of the U. S. made in pursuance thereof, and all Treaties made under the authority of the U. S. shall be the supreme law of the several States and of their citizens and inhabitants; and the Judges in the several States shall be bound thereby in their decisions, any thing in the Constitutions or laws of the several States, to the contrary notwithstanding”—

which was agreed to, nem: contrad:

Art: IX being next for consideration, M<sup>r</sup> Gov<sup>r</sup> Morris argued ag<sup>st</sup> the [“agency” stricken out] [“by” written upon<sup>appointment of officers</sup> “of”] the Senate. He considered the body as too numerous

for the purpose; as subject to cabal; and as devoid of responsibility.—If Judges were to be tried by the Senate according to a late report of a Committee it was particularly wrong to let the Senate have the filling of vacancies which its own decrees were to create.

Mr Wilson was of the same opinion & for like reasons.

The art IX—being waved— and art VII. sect 1. resumed,

Mr Gov<sup>r</sup> Morris moved to strike [“out” stricken out] the following words out of the 18 clause “enforce treaties” as being superfluous, since treaties were to be “laws” . . . . . which was agreed to nem: contrad:

Mr Gov<sup>r</sup> Morris moved to alter 1<sup>st</sup> part. of 18. clause—sect. 1. art. VII so as to read “to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions”. which was agreed to nem: contrador

On the question then to agree to the 18 clause of sect. 1. art: 7. as amended it passed in the affirmative nem: contradicente.

Mr C—<sup>moved</sup> Pinkney to add as an additional power to be vested in the Legislature of the U. S. “To negative all laws passed by the several States interfering in the opinion of the Legislature with the General interests and harmony of the Union;” provided that two thirds of the members of each House assent to the same” This principle he observed had [“at” stricken out] formerly been agreed to. He considered the precaution as essentially necessary: The objection drawn from the predominance of the large <sup>States</sup> had been removed by the equality established in the Senate— Mr Broome 2<sup>d</sup> decl the proposition.

Mr Sherman thought it unnecessary; the laws of the Gen-

eral Government being Supreme & paramount to the State laws according to the plan, as it now stands.

M<sup>r</sup> Madison proposed that it should be committed— He had been from the beginning a friend to the principle; but thought that the modification might be made [“better” stricken out] better.

M<sup>r</sup> Mason wished to know how the power was to be exercised. Are all laws whatever to be brought up? Is no road nor bridge to be established without the Sanction of the General Legislature? Is this to sit constantly in order to receive & revise the State Laws? He did not mean by these [“laws” stricken out] <sup>remarks</sup> to condemn the expedient, but he was apprehensive that great objections would lie ag<sup>st</sup> it.

M<sup>r</sup> Williamson thought it unnecessary, & having been already decided, a revival of the question was a waste of time.

M<sup>r</sup> Wilson considered this as the key-stone wanted to compleat the wide arch of Government we are raising. The power of self-defence had been urged as necessary for the State Governments— It was equally necessary for the General Government. The firmness of Judges is not of itself sufficient. Something further is requisite— It will be better to prevent the passage of an improper law, than to declare it void when passed.

M<sup>r</sup> Rutledge. If nothing else, this alone would damn and ought to damn the Constitution. Will any State ever agree to be bound hand & foot in this manner. It is worse than making mere corporations of them whose bye laws would not be subject to this shackle.

M<sup>r</sup> Elsworth observed that the power contended for w<sup>d</sup> require either that all <sup>laws</sup> [“bills should” stricken out] of the State Legislatures should [“be” stricken out] previously to



their taking effect be transmitted to the Gen<sup>l</sup> Legislature, or be repealable by the Latter; or that the State Executives should be appointed by the Gen<sup>l</sup> Government, and have a controul over the State laws. If the last was meditated ["he hoped" stricken out] let it be declared.

M<sup>r</sup> Pinkney declared that he thought the State Executives ought to be so appointed with such a controul. & that it would be so provided if another Convention should take place.

M<sup>r</sup> Govern<sup>r</sup> Morris did not see the ["necessity or utility of this provision" <sup>utility or practicability of the</sup> stricken out] proposition of M<sup>r</sup> Pinkney, but wished it to be referred to the consideration of a Committee.

M<sup>r</sup> Langdon was in favor of the proposition. He considered it as resolvable into the question whether the extent of the National Constitution was to be judged of by the Gen<sup>l</sup> or the State Governments.

On the question for commitment, it passed in the negative.

N- H. ay. Mas<sup>ts</sup> no. Con<sup>t</sup> no N. J. no. P<sup>a</sup> ay. Del: ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Pinkney then withdrew his proposition.

The 1<sup>st</sup> sect. of art: VII being so amended as to read "The Legislature shall fulfil the engagements and discharge the debts of the U. S, & shall have the power to lay & collect taxes duties imposts & excises", was agreed to

M<sup>r</sup> Butler expressed his dissatisfaction lest it should compel payment as well to the Blood-suckers who had speculated on the distresses of others, as to those who had fought & bled for their country. He would be ready he said tomorrow to vote for a discrimination between those classes of people, and gave notice that he should move for a reconsideration.

Art IX. sect. 1. being resumed, to wit "The Senate of the

U. S. shall have power to make treaties, and to appoint Ambassadors, and Judges of the Supreme Court."

<sup>Madison</sup> M<sup>r</sup> observed that the Senate represented the States alone, and that for this as well as other <sup>obvious</sup> reasons it was proper that the President should be an agent in Treaties.

Mr. Gov<sup>r</sup> Morris did not know that he should agree to refer the making of Treaties to the Senate at all, but for the present w<sup>d</sup> move [<sup>to add</sup> "that" stricken out] as an amendment to the section, after "Treaties"—"but no Treaty shall be binding on the U. S. which is not ratified by a law."

M<sup>r</sup> Madison suggested the inconvenience of requiring a legal ratification of treaties of alliance for the purposes of war &c &c

M<sup>r</sup> Ghorum. Many other disadvantages must be experienced if treaties of peace and all negotiations are to be previously ratified—and if not prevously, the Ministers would be at a loss how to proceed— What would be the case in G. Britain if the King were to proceed in this manner? <sup>Amer-</sup> American Ministers must go abroad not instructed by the same <sup>Authority</sup> (as will be the case with other Ministers) which is to ratify their proceedings.

M<sup>r</sup> Gov<sup>r</sup> Morris. As to treaties of alliance, they will oblige foreign powers to send their Ministers here, [<sup>"to"</sup> effaced] the very thing we should wish for. Such treaties could not be otherwise made, if his amendment sh<sup>d</sup> succeed. In general he was not solicitous to multiply & facilitate Treaties. He wished none to be made with G. Britain, till she should be at war. Then a good bargain might be made with her. So with other foreign powers. The more difficulty in making treaties, the more value will be set on them.

M<sup>r</sup> Wilson. In the most important Treaties, the King of

G. Britain being obliged to resort to Parliament for the execution of them, is under the same fetters as the amendment of M<sup>r</sup> Morris will impose on the Senate. It was refused yesterday to permit even the Legislature to lay duties on exports. Under the clause, without the amendment, the Senate alone can make a Treaty, requiring all the Rice of S. Carolina to be sent to some one particular port.

M<sup>r</sup> Dickinson concurred in the amendment, as most safe and proper, tho' he was sensible it was unfavorable to the little States; w<sup>ch</sup> would otherwise have an equal share in making Treaties.

Doc<sup>t</sup> Johnson thought there was something of solecism in saying that the acts of a Minister with plenipotentiary powers from one Body, should depend for ratification on another Body. The Example of the King of G. B. was not parallel. Full & compleat power was vested in him— If the Parliament should fail to provide the necessary means of execution, the Treaty would be violated.

M<sup>r</sup> Ghorum in answer to M<sup>r</sup> Gov<sup>r</sup> Morris, said that negotiations on the spot were not to be desired by us, especially if the whole Legislature is to have any thing to do with Treaties. It will be generally influenced by two or three men, who will be corrupted by the Ambassadors here. In such a Government as ours, it is necessary to guard against the Government itself being seduced.

M<sup>r</sup> Randolph observing that almost every Speaker had ["ob" effaced] made objections to the clause ["without as it stands moved that" stricken out] as it stood, moved in order to a further consideration of the subject, that the Motion of M<sup>r</sup> Gov<sup>r</sup> Morris should be postponed, and on this question It was lost the States being equally divided

["Mass<sup>ts</sup>" written upon "N"] no. Con<sup>t</sup> no. N. J— ay— Pen<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay— N. C. no. S. C. no— Geo. no.

On M<sup>r</sup> Gov<sup>r</sup> Morris Motion

Mas<sup>ts</sup> no. Con<sup>t</sup> no. N. J. no. Pa ay- Del. no- M<sup>d</sup> no. V<sup>a</sup> no.  
N. C div<sup>d</sup> S. C. no. Geo- no.

The several clauses of Sect: 1. art IX, ["being" stricken  
out]<sup>were then</sup> separately postponed after inserting "and other public  
Ministers" next after "Ambassadors." ["in Sect" effaced]

M<sup>r</sup> Madison hinted for consideration, whether a distinction  
might not be made between different sorts of Treaties—Allow-  
ing the President & Senate to make Treaties eventual and  
of Alliance ["to a for a" stricken out]<sup>for</sup> limited terms—and  
requiring ["the concurrence of" stricken out] the concu-  
rence of the whole Legislature in other Treaties.

The 1<sup>st</sup> Sect. art IX. was finally referred nem: con: to the  
committee<sup>of Five,</sup> and the House then

Adjourned.

Friday August 24. 1787. In Convention

Governour Livingston, from the Committee of Eleven, to  
whom were referred the two remaining clauses of the 4<sup>th</sup> Sect  
& the 5 & 6 Sect: of the 7<sup>th</sup> art: delivered in the following  
Report:

"Strike out so much of the 4<sup>th</sup> sect: as was referred to the  
Committee and insert—"The migration or importation of  
"such persons as the several States now existing shall think  
"proper to admit, shall not be prohibited by the Legislature  
"prior to the year 1800, but a tax or duty may be imposed on  
"such migration or importation at a rate not exceeding the  
"average of the duties laid on imports."

"The 5 Sect: to remain as in the Report"

"The 6 Sect. to be stricken out"

Mr Butler, according to notice, moved that clause 1<sup>st</sup> sect. 1. of art VII, as to discharge of debts, be reconsidered tomorrow— He dwelt on the division of opinion concerning the domestic debts, and the different pretensions of the different classes of holders. Gen<sup>l</sup> Pinkney 2<sup>d</sup>ed him.

Mr Randolph wished for a reconsideration in order to better the expression, and to provide for the case of the State debts as is done by Congress.

On the question for reconsidering

N— H. no. Mas: ay. Con<sup>t</sup> <sup>N. J. ay</sup> Pen<sup>a</sup> absent. Del. ay— M<sup>d</sup> no. V<sup>a</sup> ay— N. C. absent, S. C. ay. Geo. ay.—and tomorrow assigned for the reconsideration.

Sect: 2 & 3 of art: IX being taken up,

Mr Rutledge said this <sup>for deciding controversies between the States</sup> provision was necessary under the Confederation, but will be rendered unnecessary by the National Judiciary now to be established, and moved to strike it out.

Doc<sup>r</sup> Johnson 2<sup>d</sup>ed the Motion

Mr Sherman concurred: so did Mr Dayton.

Mr Williamson was for postponing instead of striking out, in order to consider whether this might not be a good provision, in cases where the Judiciary were interested or too closely connected with the parties—

Mr Ghorum had doubts as to striking out, The Judges might be connected with the States being parties—He was inclined to think the mode proposed in the clause would be [“more” stricken out] more satisfactory than [“that meant to to subs” stricken out] to refer such cases to the Judiciary—

On the Question for postponing the 2<sup>d</sup> and 3<sup>d</sup> Section, it passed in the negative

N. H. ay. Mas<sup>ts</sup> <sup>Con<sup>t</sup> no</sup> no. N. J. no. Pen<sup>a</sup> abs<sup>t</sup> Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. [“ay” written upon “no”] S— C no. Geo. ay.

Mr Wilson urged the striking out, the Judiciary being a better provision.

On Question for striking out 2 & 3 Sections Art: IX

N. H. ay. Mas: ay. Ct ay. N. J- ay. Pa<sup>a</sup> abs<sup>t</sup> Del- ay. Md ay. Va<sup>a</sup> ay. N. C. no. S. C. ay- Geo. no.

Art X. sect. 1. "The executive power of the U- S- shall be vested in a single person. His style shall be "The President of the U- S. of America" and his title shall be "His Excellency". He shall be elected by ballot by the Legislature. He shall hold his office during the term of seven years; but shall not be elected a second time.

On the question for vesting the power in a single person- It was agreed to nem: con: So also on the Style and title-

Mr Rutledge moved to insert "joint" before the word "ballot", as the most convenient mode of electing.

Mr Sherman objected to it as depriving the States represented in the Senate of the negative intended them in that house,

Mr Ghorum said it was wrong to be considering, at every turn ["the particular" stricken out] whom the Senate would represent. The public good was the true object to be kept in view- Great delay and confusion would ensue if the two Houses sh<sup>d</sup> vote separately, each having a negative on the choice of the other.

Mr Dayton. It might be well for those not to consider how the Senate was constituted, whose interest it Was to keep it out of sight.—If the amendment should be agreed to, a joint ballot would in fact give the appointment to one House. He could never agree to the clause with such an amendment. There could <sup>be</sup> no <sup>doubt</sup> ["danger" stricken out] of the two Houses separately concurring in the same person for President. The



importance & necessity of the case would ensure ["it" stricken out] <sup>a concurrence.</sup>

Mr Carrol moved to strike out, "by the Legislature" and insert "by the people"—Mr Wilson 2<sup>d</sup>ed him & on the question

N. H. no. Mass<sup>ts</sup> no. Con: no. N. J. no. Pa ay. Del. ay. Md no. Va no N. C. no. S. C. no. Geo. no.

Mr Brearly was opposed to the motion for inserting the word "joint". The argument that the small States should not put their hands into the pockets of the large ones did not apply in this case.

Mr Wilson urged the reasonableness of giving the larger States a larger share of the appointment, and the danger of delay from a disagreement of the two Houses. He remarked also that the Senate had peculiar powers balancing the advantage given by a joint balot in this case to the other branch of the Legislature.

Mr Langdon. This general officer ought to be elected by the joint & general voice. In N. Hampshire the mode of separate votes by the two Houses was productive of great difficult["i" written upon "y"]es. The Negative of the Senate would hurt the feelings of the man elected by the votes of the other branch. He was for inserting "joint" tho' unfavorable to N. Hampshire as a small State.

Mr Wilson remarked that as the President of the Senate was to be the President of the U- S. <sup>that Body</sup> in cases of vacancy ["that Body" stricken out] might have an interest in throwing dilatory obstacles in the way, if its <sup>separate</sup> concurrence should be required.

Mr Madison. If the amendment be agreed to ["the largest of the States, a joint ballot" stricken out] the rule of voting

will give to the largest State, compared with the smallest, an influence as 4 to 1 only, altho the population is as 10 to 1. This surely cannot be unreasonable as the President is to act for the people not for the States. The President of the Senate also is to be occasionally President of the U. S. and by his negative alone can <sup>make</sup> ["require" stricken out] <sup>the</sup>  $\frac{3}{4}$  of the other branch necessary to passage of a law— This is another advantage enjoyed by the Senate.

On the question for inserting "joint", it passed in the affirmative

N. H. ay. Mas<sup>ts</sup> ay— C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay— Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. no.

M<sup>r</sup> Dayton then moved to insert, after the word "Legislatures" the words "each State having one vote" M<sup>r</sup> Brearly <sup>2<sup>d</sup></sup> <sup>ded</sup> him, and on the question it pas<sup>sed in the negative</sup>

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. ay

M<sup>r</sup> Pinkney moved to insert after the word ["s" effaced] "Legislature" the words "to which election a majority of the votes of the members present shall be required" &

On this question, it passed in the affirmative

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. ay— M<sup>d</sup> ay— V<sup>a</sup> ay— N. C. ay— S. C. ay— Geo. ay.

[“M<sup>r</sup> Read that in case of equality of votes for the” stricken out.]

M<sup>r</sup> Read moved “that in case the numbers for the two highest in votes should be equal, then the President of the Senate shall have an additional casting vote”, which was disagreed to by a general negative.

M<sup>r</sup> Gov<sup>r</sup> Morris opposed the election of the President by the Legislature. He dwelt on the danger of rendering the Executive uninterested in maintaining the rights of his Sta-

tion, as leading to Legislative tyranny. If the Legislature have the Executive dependent on them, they can perpetuate & support their usurpations by the influence of tax-gatherers & other officers, by fleets armies &c. Cabal & corruption are ["also" stricken out] attached to that mode of election: so also <sup>is</sup> ineligibility a second time. Hence the Executive is interested in Courting popularity in the Legislature by sacrificing his Executive rights; & then he can go into that Body, after ["being disqualified to be reappointed to the" <sup>the expiration of his</sup> stricken out] Executive Office, and enjoy there the fruits of his policy. To these considerations he added that rivals would be continually intriguing to oust the President from his place. To guard against all these evils he moved that the President "shall be chosen by Electors to be chosen by the people of the several States" M<sup>r</sup> Carrol 2<sup>d</sup> <sup>it passed in the negative</sup> him & on the question

N. H. no. Mas. no. C<sup>t</sup> ay. N- J- ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no- V<sup>a</sup> ay. N- C- no- S- C- no- Geo- no.

M<sup>r</sup> Dayton moved to postpone the consideration of the two last clauses of sect. 1. art. X. which was disagreed to without a count of the States.

M<sup>r</sup> Broome moved to refer the two clauses to a Committee of a Member from each State. & on the question, it failed the States being equally divided.

N- H- no- Mas- no. C<sup>t</sup> div<sup>d</sup> N- J- ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay- V<sup>a</sup> ay. N- C- no. S. C. no- Geo. no.

On the question taken on the first part of M<sup>r</sup> Gov<sup>r</sup> Morris's Motion to wit "shall be chosen by electors" as an abstract question, <sup>the States being equally divided-</sup> it failed

N- H- no. Mas. abs<sup>t</sup> C<sup>t</sup> div<sup>d</sup> <sup>N. Jersey ay</sup> P<sup>a</sup> ay. Del. ay. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> ay- N- C- no. S. C. no. Geo. no.

The consideration of the remaining clauses of sect 1. art X. was then postponed till tomorrow at the instance of the Deputies of New Jersey—

Sect. 2. Art: X being taken up. the word information was transposed & inserted after "Legislature"

On motion of M<sup>r</sup> Gov<sup>r</sup> Morris, "he may" was struck out, & "and" inserted before "recommend" in the 2<sup>d</sup> clause sect- 2<sup>d</sup> art: X. in order to make it ["the duty of" stricken out] the duty of the President to recommend, & thence prevent umbrage or cavil at his doing it—

M<sup>r</sup> Sherman objected to the sentence "and shall appoint officers in all cases not otherwise provided for by this Constitution". He admitted it to be proper that many officers in the Executive Department should be so appointed— but contended that ["all" stricken out] <sup>many</sup> ought not, as general officers in the Army in time of peace &c. Herein lay the corruption in G. Britain. If the Executive can model the army, he may set up an absolute Government; taking advantage of the close of a war and an["d" effaced] army commanded by his creatures. James 2<sup>d</sup> was not obeyed by his officers because they had been appointed by his predecessors not by himself. He moved to insert "or by law" after the word "Constitution".

On Motion of M<sup>r</sup> Madison "officers" was struck out and "to offices" inserted, in order to obviate doubts that he might appoint officers without a previous creation of <sup>the</sup> offices by the Legislature.

On the question for inserting "or by law as moved by M<sup>r</sup> Sherman

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. no. Pen<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. absent. S. C. no. Geo. no.

Mr Dickinson moved to strike out the words "and shall appoint to offices in all cases not otherwise provided for by this Constitution" and insert—"and shall appoint to all offices established by this Constitution, except in cases ["herein" stricken out] herein otherwise provided for, and to all offices which may hereafter be created by law."

Mr Randolph observed that th["e" written upon "is"] power of appointments was a formidable one both in the Executive & Legislative hands—and suggested whether the Legislature should not be left at liberty to refer appointments in some cases, to some State Authority.

["On" stricken out] Mr Dickenson's motion, ["was negated" stricken out] it passed in the affirmative

N. H. no. Mas— no— C<sup>t</sup> ay— N— J— ay. Pa<sup>a</sup> ay— Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay— N— C. abs<sup>t</sup> S. C no. Geo— ["ay" written upon "no"]

Mr Dickinson then moved to annex to his last amendment "except where by law the appointment shall be vested in the <sup>Legislatures or</sup> Executives of the several States". Mr Randolph 2<sup>d</sup> the motion

Mr Wilson— If this be agreed to it will soon be a standing instruction to the State Legislatures to pass no law creating offices, unless the app<sup>ts</sup> be referred to them.

Mr Sherman <sup>objected</sup> to "Legislatures" in the motion, which was struck out by consent of the movers.

Mr Gov<sup>r</sup> Morris— This would be putting it in the power of the States to say, "You shall be viceroys but we will be viceroys over you"—

The motion was negated without a Count of the States—  
<sup>unanimously</sup>

Ordered that the order respecting the adjournment at 4 oClock be repealed, & that in future the House assemble at 10 OC. & adjourn at 3 oC.

Adjourned

Saturday August. 25. 1787— In Convention

The 1<sup>st</sup> clause of 1 sect. of art: VII being reconsidered

Col. Mason objected to the <sup>term,</sup> “shall”—fullfil the engagements & discharge the debts &c as too strong. It may be impossible to comply with it. The Creditors should be kept in the same plight. They will in one respect be necessarily and properly in a better. The Government will be more able to pay them. The use of the term shall will beget speculations and increase the pestilent practice of stock-jobbing. There was a great distinction between original creditors & those who purchased fraudulently of the ignorant and distressed. He did not mean to include those who have bought Stock in open market. He was sensible of the difficulty of drawing the line in this case, but He did not wish to preclude the attempt. Even fair purchasers, at 4, 5, 6, 8 for 1 did not stand on the same footing with the first Holders, supposing them not to be blamable. The interest they receive even in paper[“s” effaced] is equal to their purchase money. What he particularly wished was to leave the door open for buying up the securities, which he thought would be precluded by the term “shall” as requiring nominal payment, & which was not inconsistent with his ideas of public faith. He was afraid also the word “shall,” might extend to all the old continental paper.

M<sup>r</sup> Langdon wished <sup>to do</sup> no more than leave the Creditors in statu quo.

M<sup>r</sup> Gerry said that for himself he had no interest in the question being not possessed of more of the securities than would, by the interest, pay his taxes. He would observe however that as the public had received the value of the literal amount, they ought to pay that value to some body. The



frauds on the soldiers ought to have been foreseen. These poor & ignorant people could not but part with their securities. There are other creditors who will part with any thing rather than be cheated of the capital of their advances. The interest of the States he observed was different on this point, some having more, others less than their proportion of the paper. Hence the idea of a scale for reducing its value had arisen. If the public faith would admit, of which he was not clear, he would not object to a revision of the debt so far as to compel restitution to the ignorant & distressed, who have been defrauded. As to Stock-jobbers he saw no reason for the censures thrown on them— They keep up the value of the paper. Without them there would be no market.

M<sup>r</sup> Butler said he meant neither to increase nor diminish the security of the Creditors.

M<sup>r</sup> Randolph moved to postpone the clause ["in" written upon "and", "order" stricken out] in favor of the following "All debts contracted & engagements entered into, by or under the authority of Cong<sup>s</sup> shall be as valid ag<sup>st</sup> the U. States "under this constitution as under the Confederation"

Doc<sup>r</sup> Johnson. The debts are debts of the U— S— of the great Body of America. Changing the Government cannot change the obligation of the U— S— which devolves of course on the New Government. Nothing was in his opinion necessary to be said. If any thing, it should be a mere declaration as moved by M<sup>r</sup> Randolph.

M<sup>r</sup> Gov<sup>r</sup> Morris, said he never had become a public Creditor that he might urge with more propriety the compliance with public faith. He had always done so and always would, and preferred the term "shall" as the most explicit. As to buying up the debt, the term "shall" was not inconsistent

with it, if provision be first made for paying the interest: if not, such an expedient was a mere evasion. He was content to say nothing as the New Government would be bound of course—but would prefer the term “shall”, because it would create many friends to the plan.

On M<sup>r</sup> Randolph's Motion

N- H- ay- Mas. ay. C<sup>t</sup> ay- N. J. ay- P<sup>a</sup> no Del. <sup>Mary<sup>d</sup> ay</sup> ay- <sup>V<sup>a</sup></sup> ay- N. C- ay- S. C. ay Geo. ay-

M<sup>r</sup> Sherman <sup>thought it</sup> [“it un” stricken out] necessary to connect with the clause for laying taxes duties &c an express provision for the object of the old debts &c—and moved to add to the 1<sup>st</sup> clause of 1<sup>st</sup> sect- of art VII “for the payment of said debts and for the defraying the expenses that shall be incurred for the common defence and general welfare”.

The proposition, as being unnecessary was disagreed to, Connecticut alone, being in the affirmative.

The Report of the Committee of eleven [ [“entered on the journal of the” stricken out] <sup>see friday the</sup> 24<sup>th</sup> instant] being taken up,

Gen<sup>l</sup> Pinkney moved to strike out the words “the year <sup>as the year limiting the importation of slaves,</sup> eighteen hundred” and to insert the words “the year eighteen hundred and eight”

M<sup>r</sup> Ghorum 2<sup>d</sup> the motion

M<sup>r</sup> Madison. Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the National character than to say nothing about it in the Constitution.

On the motion; which passed in the affirmative.

N- H- ay. Mas. ay- C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del- no. M<sup>d</sup> ay. V<sup>a</sup> no. N- C. ay. S- C. ay. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris was for making the clause read at once, “importation of slaves into N. Carolina, S- Carolina &

shall not be prohibited &c.  
Georgia". This he said would be most fair and would avoid  
the ambiguity by which, under the power with regard to natural-  
ization, the liberty reserved to the States might be defeated.  
He wished it to be known also that this part of the Constitu-  
tion was a compliance with those States. If the change of  
language however should be objected to by the members  
from those States, he should not urge it.

Col: Mason was not against using the term "slaves" but  
ag<sup>t</sup> naming N- C- S- C. & Georgia, lest it should give offence  
to the people of those States.

M<sup>r</sup> Sherman liked a description better than the terms pro-  
posed, which had been declined by the old Cong<sup>s</sup> & were  
not pleasing to some people. M<sup>r</sup> Clymer concurred with  
M<sup>r</sup> Sherman

M<sup>r</sup> Williamson said that both in opinion & practice he  
was, against slavery; but thought it more in favor of human-  
ity, from a view of all circumstances, to let in S- C & Georgia  
on those terms, than to exclude them from the Union—

M<sup>r</sup> Gov<sup>r</sup> Morris withdrew his motion.

M<sup>r</sup> Dickenson wished the clause to be confined to the  
States which had not themselves prohibited the importation  
of slaves, and for that purpose moved to amend the clause so  
as to read "The importation of slaves into such of the States  
as shall permit the same shall not be prohibited by the Leg-  
islature of the U- S- until the year 1808".—which was dis-  
agreed to nem: cont:\*

["On the question to" written upon "The first part"] of  
the report was then agreed to, amended as follows. "The  
migration or importation of such persons as the several States

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\*In the printed Journal, Conn<sup>t</sup>, Virg<sup>t</sup>, & Georgia voted in the affirmative.

now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808.”

M<sup>r</sup> Baldwin in order to restrain & more explicitly define “the average duty” [“to” stricken out, “moved” written upon “la”] to strike out the words “average of the duties laid on imports” and insert “common impost on articles not enumerated” which was agreed to nem: cont:

M<sup>r</sup> Sherman was ag<sup>st</sup> this 2<sup>d</sup> part, as acknowledging<sup>men</sup> [“men” written upon “slaves”] to be property, by taxing them as such under the character of slaves,

M<sup>r</sup> King & M<sup>r</sup> Langdon considered this as the price of the 1<sup>st</sup> part.

Gen<sup>l</sup> Pinkney admitted that it was so.

Col: Mason. Not to tax, will be equivalent to a bounty on the importation of slaves.

M<sup>r</sup> Ghorm thought that M<sup>r</sup> Sherman should consider the duty, not as implying that slaves are property, but as a discouragement to the importation of them.

M<sup>r</sup> Gov<sup>r</sup> Morris remarked that as the clause now stands it implies that the Legislature may tax freemen imported.

M<sup>r</sup> Sherman in answer to M<sup>r</sup> Ghorm observed that the smallness of the duty showed revenue to be the object, not the discouragement of the importation.

M<sup>r</sup> Madison thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not like merchandise, [“<sup>consumed.</sup>” stricken out] &c

Col. Mason <sup>(in answer to Gov<sup>r</sup> Morris)</sup> [“the provision” stricken out] <sup>the provision as it stands</sup> was necessary for the case of Convicts in order to prevent the introduction of them.

It was finally agreed [“nem:” written upon “to”] contrad:

to make the clause read "but a tax or duty may be imposed on such importation not exceeding ten dollars for each person", and then <sup>the</sup> 2<sup>d</sup> part as amended was agreed to. [Illegible words stricken out]

Sect 5- art- VII <sup>was</sup> agreed to nem: con: as reported.

Sect. 6. art. VII. ["postponed" stricken out] in the Report <sup>was</sup>, postponed.

On motion of M<sup>r</sup> Madison 2<sup>d</sup>ed by M<sup>r</sup> Gov<sup>r</sup> Morris art VIII was reconsidered and after the words "all treaties made," were inserted <sup>nem: con:</sup> the words "or which shall be made" This insertion was meant to obviate all doubt concerning the force of treaties preëxisting, by making the words "all treaties made" to refer to them, as the words inserted would refer to future treaties.

M<sup>r</sup> Carrol & M<sup>r</sup> L. Martin expressed their apprehensions, and the probable apprehensions of their constituents, that under the power of regulating trade the General Legislature, might favor the ports of particular States, by requiring vessels destined to or from other States to enter & clear thereat, as vessels belonging or bound to Baltimore, to enter & clear at Norfolk &c They moved the following proposition

"The Legislature of the U- S. shall not oblige vessels belonging to citizens thereof, or to foreigners, to enter or pay duties or imposts in any other State than in that to which they may be bound, or to clear out in any other than th["e" written upon "at"] State in which their cargoes may be laden on board; nor shall any privilege or immunity be granted to any vessels on entering or clearing out or paying duties or imposts in one state in preference to another" .

M<sup>r</sup> Ghorm thought such a precaution unnecessary; &

that the revenue might be defeated, if vessels could run up long rivers, through the jurisdiction of different States without being required to enter, ["and" stricken out] with the opportunity of landing & selling their cargoes by the way.

M<sup>r</sup> M<sup>c</sup>Henry & Gen<sup>l</sup> Pinkney made the following propositions

"Should it be judged expedient by the Legislature of the U- S- that one or more ports for collecting duties or imposts other than those ports of entrance & clearance already established by the respective States, should be established, ["by" stricken out] the Legislature of the U- S- shall signify the same to the Executives of the respective States, ascertaining the number of such ports judged necessary; to be laid by the said Executives before the Legislatures of the States at their next Session; and the Legislature of the U- S- shall not have the power of fixing or establishing the particular ports for collecting duties or imposts in any State, except the Legislature of such State shall neglect to fix and establish the same during their first Session to be held after such notification by the Legislature of the U- S- to the Executive of such State"

"All duties imposts & excises, prohibitions or restraints laid or made by the Legislature of the U- S- shall be uniform and equal throughout the U- S-"

These several propositions were referred, nem: con: to a committee composed of a member from each State, ["and" stricken out] The committee appointed by ballot were M<sup>r</sup> Langdon, M<sup>r</sup> Ghorum, M<sup>r</sup> Sherman, M<sup>r</sup> Dayton, M<sup>r</sup> Fitzimmons, M<sup>r</sup> Read, M<sup>r</sup> Carrol, M<sup>r</sup> Mason, M<sup>r</sup> Williamson, M<sup>r</sup> Butler, M<sup>r</sup> Few.

On The question now taken on M<sup>r</sup> Dickinson motion of



yesterday, allowing appointments to offices, to be referred by the Gen<sup>l</sup> Legislature to the Executives of the several States" as a farther amendment to sect. 2. art. X., the votes were

N. H. no Mas. no. C<sup>t</sup> ay. P<sup>a</sup> no— Del. no. M<sup>d</sup> divided— V<sup>a</sup> ay—  
N— C— no— S. C. no. Geo. ay—

In amendment of the same section, "other public Ministers" were inserted after "ambassadors".

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out of the section—"and may correspond with the supreme Executives of the several States" as unnecessary and implying that he could not correspond with others. M<sup>r</sup> Broome 2<sup>d</sup> him.

On the question

N. H. ay. Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay.  
N. C. ay— S. C. ay. Geo— ay.

"Shall receive ambassadors & other public Ministers".  
agreed, <sup>to</sup> nem. con.  
<sup>moved</sup>

M<sup>r</sup> Sherman <sup>moved</sup> to amend the "power to grant reprieves & pardon" so as to read "to grant reprieves until the ensuing session of the Senate, and pardons with consent of the Senate."

On the question

N— H— no. Mas. no. C<sup>t</sup> ay— P<sup>a</sup> no M<sup>d</sup> no. V<sup>a</sup> no. N. C. no.  
S. C. no. Geo. no.

["The clause" stricken out] to "except in cases of impeachment" inserted nem: con: after "pardon"

On the question to agree to—"but his pardon shall not be pleadable in bar"

N. H. ay— Mas— no. C<sup>t</sup> no— P<sup>a</sup> no— Del. no. M<sup>d</sup> ay. V<sup>a</sup> no.  
N— C— ay— S. C. ay— Geo. no.

Adjourned

Monday Aug<sup>st</sup> 27<sup>th</sup> 1787. In Convention

Art X. sect. 2. being resumed,

M<sup>r</sup> L. Martin moved to insert the words "after conviction" after the words "reprieves and pardons"

M<sup>r</sup> Wilson objected that pardon before conviction might be necessary in order to obtain the testimony of accomplices. He stated the case of forgeries in which this might particularly happen.—M<sup>r</sup> L. Martin withdrew his motion.

M<sup>r</sup> Sherman moved to amend the clause giving the Executive the command of the Militia, so as to read "and of the Militia of the several States, when called into the actual service of the U—S—" and on the Question

N— H. ay. Mas. abs<sup>t</sup> C<sup>t</sup> ay. N— J. abs<sup>t</sup> P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N— C. abs<sup>t</sup> S. C— ["ay" stricken out]<sup>no.</sup> Geo— ay,

["The" written upon "On"] clause for removing the President on impeachment by the House of Rep<sup>s</sup> and conviction in the supreme Court, of Treason, Bribery or corruption, was postponed<sup>nem: con:</sup> at the instance of M<sup>r</sup> Gov<sup>r</sup> Morris, who thought the Tribunal an improper one, particularly, if the first judge was to be of the privy Council.

M<sup>r</sup> Gov<sup>r</sup> Morris objected also to the President of the Senate being provisional successor to the President, and suggested a designation of the Chief Justice.

M<sup>r</sup> Madison added as a ground of objection that the Senate might retard the appointment of a President in order to carry points whilst the revisionary power was in the President of their own body, ["but" written upon "and"] suggested that the Executive powers during a vacancy, be ["exercised by" stricken out] administered by the persons composing the Council to the President.

M<sup>r</sup> Williamson suggested that the Legislature ought to

have power to provide for occasional successors. & ["moved" <sup>relating to a provisional successor to the President</sup> written upon "tha"] that the last clause [of 2 sect. X art:] <sub>^</sub> be postponed.

M<sup>r</sup> Dickinson 2<sup>ded</sup> the postponement, remarking that it was too vague. What is the extent of the term "disability" & who is to be the judge of it?

The postponement was ["to be" stricken out] agreed to nem: con:

Col: Mason & M<sup>r</sup> Madison, moved to add to the oath to be taken by the supreme Executive "and will to the best of my judgment and power preserve protect and defend the Constitution of the U. S."

M<sup>r</sup> Wilson thought the general provision for oaths of office, in a subsequent place, rendered the amendment unnecessary—

On the question

N. H. ay— Mas— abs<sup>t</sup> C<sup>t</sup> ay— P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay— N. C. abs<sup>t</sup> S. C. ay. Geo. ay.

Art: XI being taken up.

Doc<sup>r</sup> Johnson suggested that the judicial power ought to extend to equity as well as law—and moved to insert the words "both in law and equity" after the words "U. S." in the 1<sup>st</sup> line of sect 1.

M<sup>r</sup> Read objected to vesting these powers in the same Court—

On the question

N. H. ay. <sup>Mas. absent</sup> C<sup>t</sup> ay. <sup>N. J. abst</sup> P. ay— Del. no. M<sup>d</sup> no. Virg<sup>a</sup> ay. <sup>N- C- abst</sup> S. C. ay. Geo. ay.

On the question to agree to Sect. 1. art. XI. as amended

N- H- ay- <sup>Mas. abst</sup> C<sup>t</sup> ay- <sup>N- J- abst</sup> P<sup>a</sup> ay- Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. <sup>N- C- abst</sup> S. C. ay Geo. ay.

M<sup>r</sup> Dickinson moved as an amendment to sect. 2— art XI

after the words "good behavior" the words "provided that they may be removed by the Executive on the application ["of" stricken out]<sup>by</sup> the Senate and House of Representatives."

Mr Gerry 2<sup>d</sup> the motion

Mr Gov<sup>r</sup> Morris thought it a contradiction in terms to say that the Judges should hold their offices during good behavior, and yet be removeable without a trial. Besides it was fundamentally wrong to subject Judges to so arbitrary an authority.

Mr Sherman saw no contradiction or impropriety if this were made part of the Constitutional regulation of the Judiciary establishment. He observed that a like provision was contained in the British Statutes.

Mr Rntledge: If the supreme Court is to judge between the U. S. and particular States, ["and" stricken out] this alone is an insuperable objection to the motion.

Mr. Wilson considered such a provision in the British Government as less dangerous than here, ["as" stricken out] the House of Lords & House of Commons being less likely to concur on the same occasions. Chief Justice Holt, he remarked, had successively offended by his independent conduct, both houses of Parliament. Had this happened at the same time, he would have been ousted. The Judges would be in a bad situation if made to depend on every gust of faction which might prevail in the two branches of our Gov<sup>t</sup>.

Mr Randolph opposed the motion as weak<sup>en</sup>ing too much the independence of the Judges.

Mr Dickinson was not apprehensive that the Legislature composed of ["two" stricken out]<sup>different</sup> branches constructed on such different principles, would improperly unite for the purpose of displacing a Judge—

On the question for agreeing to M<sup>r</sup> Dickinson's Motion

N. H. no. C<sup>t</sup> ay. P<sup>d</sup> no. Del. no. M<sup>d</sup> no. Va. no. S- C- no-

Geo- no.

On the question on Sect. 2 art: XI as reported, Del. & Mary<sup>d</sup> only no—  
moved

M<sup>r</sup> Madison & M<sup>r</sup> McHenry to reinstate the words ["or" stricken out] increased or" before the word "diminished" in the 2<sup>d</sup> Sect: art XI.

Mr. Gov<sup>r</sup> Morris opposed it for reasons urged <sup>by him</sup> on a former occasion—

Col: Mason contended strenuously for the motion. There was no weight he said in the argument drawn from ["the" stricken out] changes in the value of the metals, because this might be provided for by an increase of salaries so made as not to affect persons in office, and this was the only argument on which much stress seemed to have been laid.

Gen<sup>l</sup> Pinkney. The importance of the Judiciary will require men of the first talents: large salaries will therefore be necessary, larger than the U. S. can allow in the first instance. He ["was" stricken out] <sup>was</sup> not satisfied with the expedient <sup>mentioned</sup> ["suggested" stricken out] by Col: Mason. He did not think it would have a good effect or a good appearance, for new Judges to come in with higher salaries than the old ones.

M<sup>r</sup> Gov<sup>r</sup> Morris said the expedient <sup>might be evaded & therefore</sup> amounted to nothing. Judges might resign, & then be re-appointed to increased salaries.

On the question

N. H. no- C<sup>t</sup> no. P<sup>d</sup> no. Del. no- M<sup>d</sup> div<sup>d</sup> Va ay- S. C. no-  
Geo. abs<sup>t</sup> also Mas<sup>s</sup>- ["&" stricken out] N. J. & N- C-

M<sup>r</sup> Randolph & M<sup>r</sup> Madison then moved to add the following words to sect 2. art XI. "nor increased by any Act of

the Legislature which shall operate before the expiration of three years after the passing thereof "

On this question

N. H. no. C<sup>l</sup> no- P<sup>a</sup> no. <sup>Del. no.</sup> M<sup>d</sup> ay- V<sup>a</sup> ay- S. C. no. Geo- abst<sup>t</sup>  
also Mas. N. J. & N. C.

Sect. 3- art. XI. being taken up- the following clause was postponed—viz. "to the trial of impeachments of officers of the U. S." by which the jurisdiction of the supreme Court was extended to such cases.

M<sup>r</sup> Madison & M<sup>r</sup> Gov<sup>r</sup> Morris moved to insert after the word "controversies" the words "to which the U- S- shall be a party"— which was agreed to nem: con:

Doc<sup>r</sup> Johnson moved to insert the words "this Constitution and the" before the word "laws"

M<sup>r</sup> Madison doubted whether it was not going too far to extend the jurisdiction of the Court [<sup>generally to</sup> "to" stricken out] cases arising Under the Constitution, & whether it ought not to be limited to cases of a Judiciary Nature. The right of expounding the Constitution i["n" written upon "to"] cases not of this nature ought not to be given ["to them in general by" stricken out] to that Department.

<sup>of Doc<sup>r</sup>. Johnson</sup> The motion was agreed to nem: con: it being generally supposed that the jurisdiction given was constructively limited to cases of a Judiciary nature—

On motion of M<sup>r</sup> Rutledge, the words "passed by the Legislature" were struck out, and after the words "U. S" were inserted <sup>nem. con:</sup> the words "and treaties made or which ["or which" stricken out] shall be made under their authority"—conformably to a preceding amendment in another place.

The clause "in cases of impeachment", was postponed.

M<sup>r</sup> Gov<sup>r</sup> Morris wished to know what was meant by the words "In all the cases before mentioned it [jurisdiction] shall



be appellate with such exceptions &c," whether it extended to matters of fact as well as law—and to cases of Common law as well<sup>as</sup> Civil law.

M<sup>r</sup> Wilson. The Committee he believed meant facts as well as law & Common as well as Civil law. The<sup>[“existing” stricken out]</sup> jurisdiction of the federal Court of Appeals had he said been so construed.

M<sup>r</sup> Dickinson moved to add after the word “appellate” the words “both as to law & fact which was agreed to nem: con:

[“It was moved but disagreed to” stricken out]

M<sup>r</sup> Madison & M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out the beginning of the 3<sup>d</sup> sect. “The jurisdiction of the supreme Court” & to insert the words “the Judicial power” which was agreed to nem: con:

The following motion was disagreed to, to wit to insert “In all the other cases before mentioned the Judicial power shall be exercised in such manner as the Legislature shall direct”<sup>Del. Virg<sup>a</sup> ay</sup>  
<sup>N. H. Con. P. M. S. C. G. no</sup>

On a question for striking out the last [“clause” stricken out] sentence of sect. 3. “The Legislature may assign &c—”

N. H. ay— C<sup>t</sup> ay. P<sup>a</sup> ay. Del— ay— M<sup>d</sup> ay— V<sup>a</sup> ay— S— C. ay— Geo. ay.

M<sup>r</sup> Sherman moved to insert after the words “between Citizens of different States” the words, “between Citizens of the same State claiming lands under grants of different States”—according to the provision in the 9<sup>th</sup> art: of the Confederation—which was agreed to nem: con:

Adjourned

Tuesday August 28. 1787— In Convention

Mr Sherman from the Committee to whom were referred several propositions on the 25<sup>th</sup> instant, made the following report—

That there be inserted after the 4 clause of 7<sup>th</sup> section “Nor shall any regulation of commerce or revenue give preference to the ports of one State [<sup>over</sup>“to” stricken out] “those of another, or oblige vessels bound to or from any State to enter clear or pay duties in another [<sup>””</sup>“” stricken out] and all tonnage, duties, imposts & exsises laid by the Legislature shall be uniform throughout the U. S—” Ordered to lie on the table.

Art XI sect. 3. “It was moved to strike out the words “it shall be appellate” & to insert the words “the supreme Court shall have appellate jurisdiction”,—in order to prevent uncertainty whether “it” referred to the supreme Court, or [<sup>“to”</sup>“to” written upon “the”] the Judicial power.

On the question

N. H. ay. Mas. ay. Ct<sup>l</sup> ay. N. J. abs<sup>t</sup> P<sup>a</sup> ay. Del. ay. Md<sup>o</sup> no. V<sup>a</sup> ay. N C ay. S. C ay. Geo. ay.

Seet. 4— was so amended nem: con: as to read “The trial of all crimes (except in cases of impeachment) shall be by jury, and such trial [<sup>“shall”</sup>“shall” stricken out] shall be held in the State where the said crimes shall have been committed; but when not committed within any <sup>State,</sup> then the trial shall be at such place or places as the Legislature may direct”. The object of this amendment was to provide for trial by jury of offences committed out of any State.

Mr Pinkney, urging the propriety of securing the benefit of the Habeas corpus in the most ample manner, [<sup>“& for that purpose,”</sup>“& for that purpose,” stricken out] moved “that it should not be

suspended but on the most urgent occasions, & then only for a limited time not exceeding twelve months”

M<sup>r</sup> Rutledge was for declaring the Habeas Corpus inviolable— He did <sup>not</sup> conceive that a suspension could ever be necessary at the same time through all the States—

M<sup>r</sup> Gov<sup>r</sup> Morris moved [“to add” stricken out] that “The privilege of the writ of Habeas Corpus shall not be suspended, unless where in cases of Rebellion or invasion the public safety may require it”.

M<sup>r</sup> Wilson doubted whether in any case <sup>a suspension</sup> could be necessary, as the discretion now exists with Judges, in most important cases to keep in Gaol or admit to Bail.

The first part of M<sup>r</sup> Gov<sup>r</sup> Morris' <sup>motion,</sup> to the word “unless” was agreed to nem: con:—on the remaining part;

N. H. ay. Mas ay. C<sup>t</sup> ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. Va. ay.  
N. C. no. S. C. no. Geo. no.

[“The” stricken out] Sect 5. of art: XI. was agreed to nem: con:\*

Art: XII being taken up.

M<sup>r</sup> Wilson & M<sup>r</sup> Sherman moved to insert after the words “coin money” the words “nor emit bills of credit, nor make any thing but gold & silver coin a tender in payment of debts” making these prohibitions absolute, instead of [“being allowable” <sup>making the measures allowable</sup> stricken out] (as in the XIII art:) with the consent of the Legislature of the U. S.

M<sup>r</sup> Ghorum thought the purpose would be as well secured by the provision of art: XIII which makes the consent of the Gen<sup>l</sup> Legislature necessary, and that in that mode, no opposition would be excited; whereas an absolute prohibition of paper money would rouse the most [“violent” <sup>desperate</sup> stricken out],

as stated is [“most” stricken out] probably the right one.  
\* The vote in this section in the printed Journal is not unanimous. The statement here.

opposition from ["its" written upon "the"] partizans— ["of that expedient sort of medicines" stricken out]

M<sup>r</sup> Sherman thought this a favorable crisis for crushing paper money. If the consent of the Legislature could authorize emissions of it, the friends of paper money would make every exertion to get into the Legislature in order to license it.

The question being divided: on the 1<sup>st</sup> part—"nor emit bills of credit"

N. H. ay. Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> ay— Del. ay. M<sup>d</sup> div<sup>d</sup> V<sup>a</sup> no.  
N— C— ay— S— C. ay. Geo. ay.

The remaining part of M<sup>r</sup> Wilson's & Sherman's motion, <sup>was</sup> <sub>^</sub> agreed to nem: con:

M<sup>r</sup> King moved to add, in the words used in the Ordinance <sup>of Cong<sup>s</sup></sup> establishing new States, <sup>on the States</sup> a prohibition to interfere in private contracts.

M<sup>r</sup> Gov<sup>r</sup> Morris. This would be going too far. There are a thousand laws relating to bringing actions—limitations of actions & which affect contracts— The Judicial power of the U— S— will be a protection in cases within their jurisdiction; and within the State itself a majority must rule, whatever may be the mischief done among themselves.<sup>1</sup>

M<sup>r</sup> Sherman. Why then prohibit bills of credit?

M<sup>r</sup> Wilson was in favor of M<sup>r</sup> King's motion.

M<sup>r</sup> Madison admitted that inconveniences might arise from such <sup>a</sup> prohibition["s" stricken out] but thought on the whole <sup>it</sup> ["they" stricken out] would be overbalanced by the utility of it. He conceived however that a negative on the State laws could alone secure the effect. Evasions might and would be devised by the ingenuity of the Legislatures—

Col: Mason. This is carrying the restraint too far. Cases will happen that can not be foreseen, where some kind of

interference will be proper, & essential— He mentioned the case of limiting the period for bringing actions on open account—that of bonds after a certain <sup>lapse of time</sup> [“age” stricken out],—asking whether it was proper to tie the hands of the States from making provision in such cases?

M<sup>r</sup> Wilson. The answer to these objections is that retrospective interferences only are to be prohibited.

M<sup>r</sup> Madison. Is not that already done by the prohibition of ex post facto laws, which will oblige the Judges to declare such interferences null & void.

M<sup>r</sup> Rutledge moved [“in” written upon “to”]stead of M<sup>r</sup> King’s Motion to insert—“nor pass bills of attainder nor retrospective\* laws” on which motion

N. H. ay— C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. Virg<sup>a</sup> no. N— C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Madison moved to insert after the word “reprisal” (art. XII) the words “nor lay embargoes”. He urged that such <sup>by the States</sup> acts would be unnecessary—impolitic—& unjust—

M<sup>r</sup> Sherman thought the States ought to retain this power in order to prevent suffering & injury to their poor.

Col: Mason thought the amendment would be not only improper but dangerous, as the Genl. Legislature would not sit constantly and therefore could not interpose at the necessary moments— He enforced his objection by appealing to the necessity of sudden embargoes during the war, to prevent exports, particularly in the case of a blockade—

M<sup>r</sup> Gov<sup>r</sup> Morris considered the provision as unnecessary; the power of regulating trade between State & State, already vested in the Gen<sup>l</sup> Legislature, [“being competent to the object” stricken out] being sufficient.

On the question

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\* In the printed Journal “ex post facto

N. H. no. Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no.  
V<sup>a</sup> no. N. C. no. S. C. ay. Geo. no.

M<sup>r</sup> Madison moved that the words “nor lay imposts or duties on imports” be transferred from art: XIII where the consent of [“Congress may authorise them” stricken out] <sup>the Genl. Legislature may</sup> license the act—into art: XII which will make the prohibition on the States absolute. He observed that as the States interested in this power by which they could tax the imports of their neighbours passing thro’ their markets, were <sup>they could give the consent of the Legislature,</sup> a majority, [“of the consent of Congress might be given” stricken out] to the injury of N. Jersey, N. Carolina &c—

M<sup>r</sup> Williamson 2<sup>d</sup> the motion

M<sup>r</sup> Sherman thought the power might safely be left to the [“Gov<sup>t</sup>” stricken out] Legislature of the U. States.

Col: Mason, observed that particular States might wish to <sup>by impost duties</sup> encourage certain manufactures for which they enjoyed natural advantages, as Virginia, the [“culture and” stricken out] manufacture of Hemp &c.

M<sup>r</sup> Madison— The encouragment of Manufacture in that mode requires duties not only on imports <sup>directly</sup> from foreign Countries, but [“doubts” stricken out] from the other States in the Union, which <sup>would</sup> revive[“s” stricken out] all the mischiefs experienced from the want of a Gen<sup>l</sup> Government over commerce.

On the question

N. H. ay. Mas. no. C<sup>t</sup> no. N. J— ay. P<sup>a</sup> no. Del: ay. M<sup>d</sup> no.  
V<sup>a</sup> no N. C. ay. S. C. no. Geo. no.

Art: XII as amended agreed to nem: con:

Art: XIII being taken up. M<sup>r</sup> King moved to insert after the word “imports” the words “or exports” so as to prohibit



the States from taxing [~~"both"~~ stricken out] either.—& on this question it passed in the affirmative.

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J. ay. P. ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> [~~"ay."~~ stricken out] no. N. C. ay. S. C. no. Geo. no.

M<sup>r</sup> Sherman moved to add, after the word "exports"—the words "nor with such consent but for the use of the U. S."—so as to carry the proceeds of all State duties on imports & exports, into the common Treasury.

M<sup>r</sup> Madison liked the motion as preventing all State imposts—but lamented the complexity we were giving to the commercial [~~"part of this"~~ stricken out] <sup>[~~"our"~~ stricken out]</sup> system.

M<sup>r</sup> Gov<sup>r</sup> Morris thought the regulation necessary to prevent the Atlantic States from endeavouring to tax the Western States—& promote their interest by opposing the navigation of the Mississippi which would [~~"throw"~~ stricken out] <sup>drive</sup> the Western people into the arms of G. Britain.

M<sup>r</sup> Clymer thought the encouragement of the Western Country was suicide on the old States— If the States have such different interests that they can not be left to regulate their own manufactures without encountering the interests of other States, it is a proof that they are not fit to compose one nation.

M<sup>r</sup> King was afraid that the regulation moved by M<sup>r</sup> Sherman would too much interfere with [~~"State the"~~ stricken out] <sup>[~~"the necessary"~~ stricken out]</sup> <sup>a</sup> out] <sup>a</sup> policy of States respecting their manufactures, which may be necessary. Revenue he reminded the House was the object of the general Legislature.

On M<sup>r</sup> Sherman's motion

N. H. ay. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

Art XIII was then agreed to as amended.

Art. XIV ["being" stricken out]<sup>was</sup> taken up. ["was agreed to" stricken out]

Genl. Pinkney was not satisfied with it. He seemed to wish some provision should be included in favor of property in slaves.

On the question on art: XIV.

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. ay- P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay- V<sup>a</sup> ay. N- C- ay. S- C. no. Geo. divided

Art: XV. being taken up. the words "high misdemeanor," were struck out, and "other crime" inserted, in order to comprehend all proper cases: it being doubtful whether "high misdemeanor" had not a technical meaning too limited.

M<sup>r</sup> Butler and M<sup>r</sup> Pinkney moved ["that fu" stricken out] "to require fugitive slaves ["and" written upon "to"] servants to be delivered up like criminals."

M<sup>r</sup> Wilson. This would oblige the Executive <sup>of the State</sup> to do it, at the public expense.

M<sup>r</sup> Sherman saw no more ["reason" stricken out] propriety in the public seizing and surrendering a slave or servant, than a horse.

M<sup>r</sup> Butler withdrew his proposition in order that some particular <sup>provision</sup> might be made apart from this article.

Art XV as amended was then agreed to nem: con:

Adjourned

Wednesday August 29<sup>th</sup> 1787. In Convention

Art: XVI. taken up.

M<sup>r</sup> Williamson moved to substitute in place of it, the words of the Articles of Confederation on the same subject. He did <sup>not</sup> understand precisely the meaning of the article.

M<sup>r</sup> Wilson & Doc<sup>r</sup> Johnson supposed the meaning to be that Judgments in one State should be the ground of actions in other States, & that acts of the Legislatures should be included, [“as they may sometimes serve the like purpose as act” stricken out] for the sake of Acts of insolvency &c—

M<sup>r</sup> Pinkney moved to commit art XVI, with the following proposition, “To establish uniform laws upon the subject of bankruptcies, and respecting the damages arising on the protest of foreign bills of exchange”

M<sup>r</sup> Ghorum was for agreeing to the article, and committing the [“motion” stricken out] proposition.

M<sup>r</sup> Madison was for committing both. He wished the Legislature might be authorized to provide for the execution of Judgments in other States, under such regulations as might be expedient— He thought that this might be safely [“regulated” stricken out] <sup>done</sup> and was justified by the nature of the Union.

M<sup>r</sup> Randolph said there was no instance of one nation executing judgments [“of” written upon “in”] the Courts of another nation. [“He” written upon “he”] <sup>He</sup> moved the following proposition.

“Whenever the Act of any State, whether Legislature, Executive or Judiciary shall be attested & exemplified under the seal thereof, such attestation and exemplification, shall be deemed in other States as full proof of the existence of that act—and its operation shall be binding in every other State, in all cases to which it may relate, and which are within the cognizance and jurisdiction of the State, wherein the said act was done.”

On the question for committing art: XVI with M<sup>r</sup> Pinkney's motion

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

The motion of M<sup>r</sup> Randolph was also committed nem: con:  
M<sup>r</sup> Gov<sup>r</sup> Morris moved <sup>to commit also</sup> the following proposition on the  
[“ ” stricken out]  
same subject.

“Full faith ought to be given in each State to the public acts, records, and judicial proceedings of every other State; and the Legislature shall by general laws, determine the proof and effect [“thereof” stricken out] of such acts, records, and proceedings”. and it was committed nem: contrad:

The committee appointed for these references, were M<sup>r</sup> Rutledge, M<sup>r</sup> Randolph, M<sup>r</sup> Gorham, M<sup>r</sup> Wilson, & M<sup>r</sup> Johnson.

M<sup>r</sup> Dickenson mentioned to the House that on examining Blackstone's Commentaries, he found that the terms “ex post facto” related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases, and that some further provision for this purpose would be requisite.

Art. VII Sect. 6 [“of Art. VII. sect. 6. as reported as contained”  
<sup>see</sup> stricken out] (<sup>of eleven</sup> [“on” stricken out] the 24 instant) being now taken up,

M<sup>r</sup> Pinkney moved to postpone the Report in favor of the following proposition—“That no act of the Legislature for the purpose of regulating the commerce of the U- S. with foreign powers, or among the several States, shall be passed without the assent of two thirds of the members of each House”—He remarked that there were <sup>five</sup> distinct commercial interests— 1. the fisheries & W. India trade, which belonged to the N. England States. 2. the interest of N. York lay in

a free trade. 3. Wheat & flour the Staples of the two Middle States, (N. J. & Penn<sup>a</sup>)— [“4” written upon “Tob<sup>o</sup>”] Tob<sup>o</sup> the staple of Mary<sup>d</sup> & Virginia <sup>& partly of N. Carolina</sup>. 5. Rice & Indigo, the staples of S. Carolina & Georgia. These different interests would be a source of oppressive regulations if no check [“should” stricken out] to a bare majority should be provided. States pursue their interests with less scruple than individuals. The power of regulating commerce was a pure concession on the part of the S. States. They did not need. the protection of the N. States at present.

M<sup>r</sup> Martin 2<sup>d</sup> the motion

Gen<sup>l</sup> Pinkney said it was the true interest of the S. States to have no regulation of commerce; but considering the loss brought on the Eastern States by the revolution, their liberal conduct towards the views\* of South Carolina, and the interest the weak South<sup>n</sup> States had in being united with the strong Eastern States, he [“did not wish any fetters to be put on” stricken out] <sup>thought it proper that no</sup> imposed on the power of making commercial regulations; and that his constituents though prejudiced against the Eastern States, would be reconciled to this liberality— He had himself, he said, prejudices ag<sup>t</sup> the Eastern States before he came here, but would acknowledge that he had found them as liberal and candid as any men whatever.

M<sup>r</sup> Clymer. The diversity of commercial interests, of necessity creates difficulties, [“and” stricken out] <sup>which</sup> ought not to be increased by unnecessary restrictions. The Northern & middle States will be ruined, if not enabled to defend themselves against foreign regulations.

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\*he meant the permission to import slaves. An understanding on the two subjects of navigation and slavery, had taken place between those parts of the Union, which explains the vote on the Motion depending, as well as the language of Gen<sup>l</sup> Pinkney & others.

Mr Sherman, alluding to Mr Pinkney's enumeration of particular interests, as requiring a security ag<sup>st</sup> abuse of the power; observed that, the diversity was of itself a security. adding that to require more than a majority to decide a question was always embarrassing as had been experienced in ["the" stricken out] cases requiring the votes of nine States in Congress.

Mr Pinkney replied that his enumeration meant the five minute interests— It still left the two great divisions of Northern & Southern Interests.

Mr Gov<sup>r</sup> Morris. opposed the object of the motion as <sup>highly</sup> injurious— ["to" stricken out] Preferences to american ships will multiply them, till they can carry the Southern produce cheaper than it is now carried— —A navy was essential to security, particularly of the S. States, and can only be had by a navigation act encouraging american bottoms & seamen— In those points of view then alone, it is the interest of the S. States that ["american" stricken out] navigation acts should be facilitated. Shipping he said was the worst & most precarious kind of property. and stood in need of public patronage.

Mr Williamson was in favor of making two thirds instead of a majority requisite, as more satisfactory to the Southern people. No useful measure he believed had been lost in Congress for want of nine ["States" stricken out] <sup>votes</sup> <sub>^</sub> As to the weakness of the Southern States, he was not alarmed on that account. The sickliness of their climate for invaders would prevent their being made an object. He acknowledged that he did not think the motion requiring  $\frac{2}{3}$  necessary in itself, because if a majority <sup>of Northern States</sup> <sub>^</sub> should push their regulations too <sup>far,</sup> <sub>^</sub> the S. States would build ships for them—



selves: but he knew the Southern people were apprehensive on ["on" stricken out] this subject and would be pleased with the precaution.

M<sup>r</sup> Spaight was against the motion. The Southern <sup>States</sup> could at any time save themselves from oppression, by building ships for their own use.

M<sup>r</sup> Butler differed from those who considered the rejection of the motion as no concession on the part of the S. States. He considered the interests of these and of the Eastern States, to be as different as the interests of Russia and Turkey. Being notwithstanding desirous of conciliating the affections of the East: States, he should vote["s" stricken out] ag<sup>st</sup> requiring  $\frac{2}{3}$  instead of a majority.

Col: Mason. If the Gov<sup>t</sup> is to be lasting, it must be founded in the confidence & affections of the people, and must be so constructed as to obtain these. The Majority will be governed by their interests. The Southern States are the minority in both Houses. Is it to be expected that they will deliver themselves bound hand & foot to the Eastern States, and enable them to exclaim, in the words of Cromwell on a certain occasion—"the lord hath delivered them into our hands.

M<sup>r</sup> Wilson took notice of the several objections and remarked that if every peculiar interest was to be secured, unanimity ought to be required. The majority he said would be no more governed by interest than the minority—It was surely better to let the latter be bound hand and foot than the former. Great inconveniences had, he contended, been experienced in Congress from the article of confederation requiring nine votes in certain cases.

M<sup>r</sup> Madison. went into a pretty full view of the subject.

He observed that the disadvantage to the S. States from a navigation act, ["would" stricken out] lay chiefly in ["a" written upon "the"] temporary rise of freight, attended however with an increase of South<sup>n</sup> as well as Northern Shipping—with the emigration of Northern Seamen & merchants to the Southern States—& with a removal of the existing ["& fetters" stricken out] retaliations among the States .

<sup>& injurious</sup> The power of foreign nations to obstruct ["public" stricken out] <sup>our retaliating</sup> measures ["help" stricken out] <sup>on each other</sup> ["and with successful retaliation on the injurious restrictions of foreign powers "]. <sup>on them by</sup> stricken out] An abuse of the power each House sh<sup>d</sup>. be required to legislative acts in this case.

would be qualified with all these good effects. But he thought an abuse was rendered improbable by the provision of 2 branches—by the independence of the Senate, by the ["controll of the Executive" stricken out] <sup>of the Executive</sup> negative, by the interest of Connecticut & N. Jersey which were agricultural, not commercial ; by the interior interest which was also agricultural in the most commercial States— by the accession of Western States which w<sup>d</sup> be altogether agricultural. He added that the Southern States would derive <sup>an</sup> essential advantage in the general security ["depen" stricken out] afforded <sup>the increase of our</sup> by maritime strength. He stated the vulnerable situation of them all, and of Virginia in particular. The increase of the Coasting trade, and of seamen, would also be favorable to the S. States, ["which will then as" stricken out] by increasing, the consumption of their produce. If the Wealth of the Eastern should in a greater proportion be augmented, ["they would" stricken out] that wealth w<sup>d</sup> <sup>still</sup> contribute the more to the public wants, and be otherwise a national benefit.

Mr Rutledge was ag<sup>st</sup> the motion of his colleague. It did not follow from a grant of the power to regulate trade, that it

would be abused. At the worst a navigation act could bear hard a little while only on the S. States. As we are ["laying" written upon "forming"] the foundation for a great empire, we ought to take a permanent view of the subject and not look at the present moment only. He reminded the House of the necessity of securing the West India trade to this country. That was the great object, and [illegible words stricken out] a navigation Act was necessary for obtaining it.

Mr Randolph said that there were features so odious in the Constitution as it now stands, that he doubted whether he should be able to agree to it. A rejection of the motion would compleat the deformity of the system. He took notice of the argument in favor of giving the power over trade to a majority, drawn from the opportunity foreign powers would have of obstructing retaliating measures, if two thirds were made requisite. He did not think there was weight in that consideration— The difference between a majority & two thirds did not afford room for such an opportunity. Foreign influence would also be more likely to be exerted on the President who could require three fourths by his negative— He did not mean however to enter into the merits. What he had in view was merely to pave the way for a declaration which he might be hereafter obliged to make if an accumulation of obnoxious ingredients should take place, that he could not give his assent to the plan.

Mr Gorham. If the Government is to be so fettered as to be unable to relieve the Eastern States what motive ["can they" stricken out] can they have to join in it, and thereby tie their own hands from measures which they could otherwise take for themselves. The Eastern States were not

["led" stricken out] led to strengthen the Union by fear for their own safety. He deprecated the consequences of disunion, but ["they" stricken out] if it should take place it was the Southern part of the Continent that had the most reason to dread them. He urged the improbability of a combination against the interest of the Southern States, the different situations of the Northern & Middle States being a security against it. It was moreover certain that foreign ships would never be altogether excluded especially those of Nations in treaty with us.

On the question to postpone in order to take up M<sup>r</sup> Pinkney's Motion

N- H. no. Mas. no. C<sup>t</sup> no N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay- S- C. no- Geo. ay,

The Report of the Committee for striking <sup>out</sup> sect: 6. requiring two thirds of each House to pass a navigation <sup>act</sup> was then agreed to, nem: con:

M<sup>r</sup> Butler moved to insert after art: XV. "If any person bound to service or labor in any of the U- States shall escape into another State, he ["shall" stricken out] or she shall not be discharged from such service or labor, in consequence of any regulations subsisting in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor," which was agreed to nem: con:

Art: XVII being taken up, M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out the two last sentences, to wit "If the admission be consented to, the new States shall be admitted on the same terms with the original States- But the Legislature may make conditions with the new States, concerning the public debt, which shall ["then" stricken out] be then subsisting".—He did not wish to bind down the Legislature to admit Western States on the terms here stated.

Mr Madison opposed the motion, insisting that the Western States neither would nor ought to submit to a Union which degraded them from an equal rank with the other States.

Col: Mason— If it were possible by just means to prevent emigrations to the Western Country, it might be good policy. But go the people will as they find it for their interest, and the best policy is to treat them with that equality which will make them ["firm" stricken out] friends not enemies.

Mr Gov<sup>r</sup> Morris. did not mean to discourage the growth of the Western Country. He knew that to be impossible. He did not wish however to throw the power into their hands.

Mr Sherman, was ag<sup>st</sup> the motion, & for fixing an equality of privileges by the Constitution.

Mr Langdon was in favor of the Motion. he did not know but circumstances might arise which would render it inconvenient to admit new States on terms of equality.

Mr Williamson was for leaving the Legislature free. The existing small States enjoy an equality now, and for that reason are admitted to it in the Senate. This reason is not applicable to <sup>new</sup> Western States.

On Mr Gov<sup>r</sup> Morris's motion for striking out.

N. H. ay— Mas. ay— C<sup>t</sup> ay. N— J. ay. Pa<sup>a</sup> ay. Del. ay. <sup>Mr. no</sup> V<sup>a</sup> no.  
N— C— ay. S— C— ay. Geo. ay,

Mr L— Martin & Mr Gov<sup>r</sup> Morris moved to strike out of art XVII "but to such admission the consent of two thirds of the "members present shall be necessary." Before any question was taken on this motion,

Mr Gov<sup>r</sup> Morris ["in" written upon "to"]oved the following proposition as a substitute for the XVII art: "New States may be admitted by the Legislature into the Union: but no <sup>state</sup> new shall be erected within the limits of any of the

present States, without the consent of the Legislature of such State, as well as of the Gen<sup>l</sup> Legislature ”

The first part to Union inclusive was agreed to nem : con :

M<sup>r</sup> L<sup>r</sup> Martin opposed the latter part— Nothing he said would so alarm the limited States as to make the consent of the large States claiming the Western lands, necessary to the establishment of new States within their limits. It is proposed to guarantee the States. Shall Vermont be reduced [“by” written upon “in”] force [“to certain” stricken out] in favor of the States claiming it? Frankland & the Western country of Virginia were in a like situation.

On M<sup>r</sup> Gov<sup>r</sup> Morris's Motion to substitute & C it was agreed to—

N. H. no. [“Mas.” written upon “ay”]. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

Art : XVII—before the House, as amended.

M<sup>r</sup> Sherman was against it. He thought it unnecessary. The Union cannot dismember a State without its consent.

M<sup>r</sup> Langdon thought there was great weight in the argument of M<sup>r</sup> Luther Martin, and that <sup>the</sup> <sup>by M<sup>r</sup> Gov<sup>r</sup> Morris</sup> proposition substituted <sup>^</sup> would excite a dangerous opposition to the plan.

M<sup>r</sup> Gov<sup>r</sup> Morris thought on the contrary<sup>^</sup> that the small States would be pleased with the regulation, as it holds [“up t” stricken out]<sup>up</sup> <sup>^</sup> the idea of dismembering the large States.

M<sup>r</sup> Butler. If new States were to be erected without the consent of the dismembered States, nothing but confusion would ensue. Whenever taxes should press on the people, demagogues would set up their schemes of new States.

Doc<sup>r</sup> Johnson agreed in general with the ideas of M<sup>r</sup> Sherman, but was afraid that as the clause stood, Vermont would be subjected to N<sup>o</sup>-York, contrary to the faith pledged by



Congress. He was of opinion that Vermont ought to be compelled to come into the Union.

M<sup>r</sup> Langdon said his objections were connected with the case of Vermont. If they are not taken in, & remain exempt from taxes, it would prove of great injury to N. Hampshire and the other neighbouring States

[“( ” stricken out] M<sup>r</sup> Dickinson hoped the [“clause wd” stricken out] article would not be agreed to. He dwelt on the impropriety of requiring the small States to secure the large ones in their extensive claims of territory.

M<sup>r</sup> Wilson— When the majority of a State wish to divide they can do so. The aim of those in opposition to the article, he perceived, was that the Gen<sup>l</sup> Government should abet the minority, & by that means divide a State against its own consent.

M<sup>r</sup> Gov<sup>r</sup> Morris. If the <sup>forced</sup> division of the States is the object of the [“gentleman's” stricken out] new System, and is to be pointed ag<sup>st</sup> one or two States, he expected, the gentleman [“in the Chair [George Washington,]” stricken out] would pretty quickly leave us.

Adjourned

Thursday August 30<sup>th</sup> 1787. In Convention

Art XVII resumed for a question on it as amended by M<sup>r</sup> Gov<sup>r</sup> Morris's substitutes

M<sup>r</sup> Carrol moved to strike out so much of <sup>the</sup> article as requires the consent of the State to its being divided. He was aware that the object of this prerequisite might be to prevent

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X[“ag<sup>st</sup>. a deputy from Virginia one of the States particularly and”, illegible words stricken out]

domestic disturbances, but such was our situation with regard to the Crown lands, and the sentiments of Maryland on that subject, that he perceived we should again be at sea, if no guard was provided for the right of the U. States to the back lands. He suggested that it might be proper to provide that nothing in the Constitution should affect the Right of the U. S. to ["the" stricken out] lands ceded <sup>G. Britain in</sup> by the Treaty of peace, and proposed a committment to a member from each State. He assured the House that this was a point of a most serious nature. It was desirable above all things that the act of the Convention might be agreed to unanimously. But should this point be disregarded, he believed that all risks would be run by a considerable minority, ["bef" stricken out] sooner than give their concurrence.

M<sup>r</sup> L. Martin 2<sup>d</sup> the motion for a committment.

M<sup>r</sup> Rutledge is it to be supposed that the States are to be cut up without their own consent. The case of Vermont will probably be particularly provided for. There could be no room to fear, that Virginia or N- Carolina would call on the U. States to maintain their Government over the Mountains.

M<sup>r</sup> Williamson said that N. Carolina was well disposed to give up her Western lands, but attempts at compulsion was not the policy of the U. S. He was for doing <sup>nothing</sup> in the constitution in the present case, and for leaving the whole matter in Statu quo.

M<sup>r</sup> Wilson was ["a" written upon "th"]gainst the <sup>to</sup> committment. Unanimity was of great importance, but not <sup>to</sup> be purchased by the majority's yielding to the minority. He should have no objection to leaving the case of New States as heretofore. He knew of nothing that would give greater or juster alarm than the doctrine, that a political societi["y"

written upon "es", "is" written upon "are"] to be torne asunder without its own consent—

On M<sup>r</sup> Carrol's motion ["for" written upon "to"] commitment

N. H. ["no" written upon "ay"] Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Sherman moved to postpone the substitute for art: XVII agreed to yesterday in ["order to" written upon "favor of"] <sup>take up</sup> the following amendment "The Legislature shall have power to admit other States into the Union, and new States to be formed by the division or junction of States now in the Union, with the consent of the Legislature of such State["s" erased]" [The first part was meant for the case of Vermont to secure its admission]

On the question, it passed in the Negative

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. ay. Geo. no.

["The word 'limits' was struck out of" stricken out]

Doc<sup>r</sup> Johnson moved to insert the words "hereafter formed or" after the words "shall be" in the substitute for art: XVII, [the more clearly to save Vermont as being already formed into a State, <sup>a dependence on</sup> from the consent of N. York to her admission.]

The motion was agreed to Del. & M<sup>d</sup> only dissenting.

M<sup>r</sup> Govern<sup>r</sup> Morris moved to strike out the word "limits" in the substitute, and insert the word "jurisdiction" [This also was meant to guard the case of Vermont, the jurisdiction of N. York not extending over Vermont which was in the exercise of sovereignty, tho' Vermont was within the asserted limits of New York]

On this question

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. <sup>Del. ay</sup> M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

Mr L. Martin, urged the unreasonableness of forcing <sup>& guaranteeing</sup> the <sup>the Western people,</sup> people of Virginia beyond the Mountains, <sup>^</sup> of N. Carolina. & of Georgia, & the people of Maine, to continue under the States now governing them, without the consent of those <sup>to their separation</sup> States. Even if they should become the majority, the majority of Counties, as in Virginia may still hold fast the dominion over them. Again the majority may ["hold" stricken out] place the seat of Government entirely among themselves & for their own conveniency, and still keep the injured parts of the States in subjection, under the guarantee of the Genl Government ag<sup>st</sup> domestic violencé. He wished Mr Wilson had thought a little sooner of the value of political ["Counties" stricken out] <sup>bodies</sup> <sup>^</sup>. In the beginning, when the rights of the small States were in question, they were phantoms, ideal beings. Now ["that" stricken out] when the Great States were to be affected, ["they" stricken out] <sup>political Societies</sup> <sup>^</sup> were of a sacred nature. He repeated and enlarged on the unreasonableness of requiring the small States to guarantee the Western claims of the large ones. <sup>[illegible words, "with this" stricken out]</sup> —It was said yesterday by Mr Gov<sup>r</sup> Morris, <sup>large</sup> <sup>^</sup> that if the States were to be split to pieces without their consent, their representatives here would take<sup>1</sup> their leave. If the Small States are to be required to guarantee them in this manner, it will be found that the Representatives of other <sup>States</sup> <sup>^</sup> will with equal firmness take their leave of the Constitution on the table.

It was moved ["[" stricken out] by Mr L. Martin [as understood)] "stricken out] to postpone the substituted article, in order to take up the following.

"The Legislature of the U- S- shall have power to erect New States within as well as without the territory claimed by the several States or either of them, and admit the same

into the Union: provided that nothing in this constitution shall be construed to affect the claim of the U- S. to vacant lands ceded to them by the late treaty of peace- which passed in the negative: N. J. Del. & Md. <sup>only</sup> ay.

On the question to <sup>agree to</sup> M<sup>r</sup> Gov<sup>r</sup> Morris's substituted article as amended in the words following,

"New States may be admitted by the Legislature into the Union: but no new State shall be hereafter formed or erected within the jurisdiction of any of the present States without the consent of the Legislature of such State as well as of the General Legislature"

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J- no- P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N- C. ay- S. C- ay. Geo. ay.

M<sup>r</sup> Dickinson moved to add ["to" stricken out] the following clause to the last—

"Nor shall any State be formed by the junction of two or more States or parts thereof, without the consent of the Legislatures of such States, as well as of the Legislature of the U. States". which was agreed to without a ["call" <sup>count</sup> stricken out] of the ["Votes" written upon "States"].

M<sup>r</sup> Carrol moved to add—"Provided nevertheless that nothing in this Constitution shall be construed to affect the claim of the U. S. to vacant lands ceded to them by the Treaty of peace". This he said ["had" stricken out] might be understood as relating to lands not claimed by any particular States. but he had in view also some of the claims of particular States.

M<sup>r</sup> Wilson was ag<sup>t</sup> the motion. There was nothing in the Constitution affecting one way or the other the claims of the U. S. & it was best to insert nothing, leaving every thing on that litigated subject in statu quo.

Mr Madison considered the claim of the U. S. as in fact favored by the jurisdiction of the Judicial power of the U- S- over controversies to which they should be part["ies" written upon "y"]. He thought it best on the whole to be silent on the subject. He did not view the ["proviso" written upon "motion"] of Mr Carrol as dangerous; but to make it neutral and fair, it ought to go farther & ["dec" written upon "say"]lare that the claims of particular States also should not be affected.

Mr Sherman thought the proviso harmless, especially with the addition suggested by Mr Madison in favor of the claims of particular States.

Mr Baldwin did not wish any  <sup>undue</sup> advantage to be given to Georgia. He thought the proviso proper with the addition proposed. It should be remembered that if Georgia has gained much by the Cession in the Treaty of peace, she was in danger during the war, of a Uti possidetis.

Mr Rutledge thought it wrong to insert a proviso where there was nothing which it could restrain, or on which it could operate.

Mr Carrol withdrew his motion and moved the following, "Nothing in this Constitution shall be construed to alter the claims of the U. S. or of the individual States to the Western territory, but all such claims shall be examined <sup>into</sup> & decided upon, by the Supreme Court of the U. States."

Mr Gov<sup>r</sup> Morris moved to postpone this in order to take up the following. "The Legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the U. States; and nothing in this constitution contained, shall be so construed as to prejudice any claims either of the U- S- or of any particular State,"—The postponem<sup>t</sup> ag<sup>d</sup> to nem. con.



M<sup>r</sup> L. Martin moved to amend the proposition of M<sup>r</sup> Gov<sup>r</sup> Morris by adding—"But all such claims may be examined into & decided upon by the supreme Court of the U-States".

M<sup>r</sup> Gov<sup>r</sup> Morris. this is unnecessary, as all suits to which the U. S- are parties- are already to be decided by the Supreme Court.

M<sup>r</sup> L. Martin, it is proper in order to remove all doubts on this point.

Question on M<sup>r</sup> L- Martin's amendatory motion

N- H- no. Mas- no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> no—States not farther called the negatives being sufficient & the point given up.

The Motion of M<sup>r</sup> Gov<sup>r</sup> Morris was then agreed to, ["nem: con:" <sup>M<sup>d</sup>. alone dissenting.</sup> stricken out]<sub>^</sub>

Art: XVIII being taken up,—the word "foreign" was struck out. ["nem: con: Maryland being in the negative. It was thought to be superfluous as implied in the term <sup>["Mr Dickinson moved to strike" stricken out]</sup> nem: con: as superfluous, being implied in the term "invasion" invasion" stricken out]

M<sup>r</sup> Dickinson moved to strike out "on the application of its Legislature against" He thought it of essential importance to the tranquillity of the U- S. that they should <sup>in all cases</sup> suppress domestic violence, which may proceed from the State Legislature itself, or from disputes between the two branches where such exist

M<sup>r</sup> Dayton mentioned the Conduct of Rho. Island as shewing the necessity of giving latitude to the power of the U- S. on this subject.

On the question

N. H. no. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del. ay- M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo- no

On a question for striking out "domestic violence" <sup>and</sup>  
<sup>it passed in the negative.</sup>  
 insertg. "insurrections"—N. H. no. Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> [<sup>no</sup>"ay"  
 stricken out] Del no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay

M<sup>r</sup> Dickinson moved to insert the words, "or Executive"  
 after the words "application of its Legislature"—The occa-  
 sion itself he remarked might hinder the Legislature from  
 meeting.

On this question

N. H. ay. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> div<sup>d</sup>  
 V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> L—Martin <sup>moved</sup> to subjoin to the last amendment the words  
 "in the recess of the Legislature" On which question

N. H. no. Mas. no. C<sup>t</sup> no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> no.  
 N. C. no. S. C. no. Geo—no.

On Question on the last [<sup>clause</sup>"clause" stricken out] <sup>^</sup> as  
 amended

N. H. ay. Mas—ay. C<sup>t</sup> ay—N. J. ay—P<sup>a</sup> ay. Del. no. M<sup>d</sup> no.  
 V<sup>a</sup> ay. N—C—ay—S—C. ay. Geo—ay,

Art: XIX taken up.

M<sup>r</sup> Gov<sup>r</sup> Morris suggested that the Legislature should be  
 left at liberty to call a Convention, whenever they please.

The art: was agreed to nem: con:

Art: XX. taken up.—"or affirmation" <sup>was</sup> added after "oath."  
<sup>["question to agree to the" stricken out] ^</sup>  
<sup>["and on the" stricken out]</sup>

M<sup>r</sup> Pinkney. moved to add to the art:—"but no religious  
 test shall ever be required as a qualification to any office or  
 public trust under the authority of the U. States"

M<sup>r</sup> Sherman thought it unnecessary, the prevailing liber-  
 ality being a sufficient security ag<sup>t</sup> such tests.

M<sup>r</sup> Gov<sup>r</sup> Morris & Gen<sup>l</sup> Pinkney approved the motion,  
 ["which" effaced]

The motion was agreed to nem: con: and, [<sup>then the whole</sup> "the" stricken out] Article,  
 N- C. only no—& M<sup>d</sup>, divided.

Art: XXI. taken up. viz: "The ratifications of the Conventions of        States shall be sufficient for organizing this Constitution."

M<sup>r</sup> Wilson proposed to fill the blank with "seven" that being a majority of the whole number & sufficient for the commencement of the plan.

M<sup>r</sup> Carrol moved to postpone the article in order to take up the Report of the Committee of Eleven (see Tuesday Aug<sup>st</sup> 28)—and on the question

N. H- no. Mas- no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay.  
 V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Gov<sup>r</sup> Morris thought the blank ought to be filled in a twofold way, so as to provide for the event of the ratifying States being contiguous which would render a smaller number sufficient, and the event of their being dispersed, [<sup>"whi"</sup> stricken out] which w<sup>d</sup> require a greater number for the introduction of the Government.

M<sup>r</sup> Sherman. observed that the States being now confederated by articles which require unanimity in changes, he thought the ratification in this case of ten States at least ought to be made necessary.

M<sup>r</sup> Randolph was for filling the blank with "Nine" that being a respectable majority of the whole, and being a number made familiar by the constitution of the existing Congress.

M<sup>r</sup> Wilson [<sup>"thought"</sup> stricken out] mentioned "eight" as preferable.

M<sup>r</sup> Dickinson asked whether the concurrence of Congress is to be essential to the establishment of the system, whether

the refusing States in the Confederacy could be deserted—and whether Congress could concur in contravening the system under which they acted?

M<sup>r</sup> Madison. remarked that if the blank should be filled with “seven” eight, or “nine”—the Constitution <sup>as it stands</sup> might be put in force over the whole body of the people. tho’ less than a majority of them should ratify it.

M<sup>r</sup> Wilson. As the Constitution stands, the States only which ratify can be bound. We must be said in this <sup>case</sup> go to the original powers of Society. The House on fire must be extinguished, [“with respect <sup>without a scrupulous regard to</sup> respect to the” stricken out] ordinary rights. [“of persons” stricken out]

M<sup>r</sup> Butler was in favor of “nine”. He revolted at the idea, that one or two States should restrain the rest from consulting their safety.

M<sup>r</sup> Carrol moved to fill the blank with “the thirteen”. unanimity being necessary to dissolve the existing confederacy which had been unanimously established.

M<sup>r</sup> King thought this amend<sup>t</sup> necessary, otherwise as the <sup>Constitution now stands it</sup> [“article stands the Constitution” stricken out] will operate on the whole though ratified by a part only.<sup>1</sup>

Adjourned

Friday August 31<sup>st</sup> 1787. In Convention.

M<sup>r</sup> King moved to add to the end of art: XXI the words “between the said States” so as to confine the operation of the Gov<sup>t</sup> to the States ratifying it.

On the question

N. H. ay. Mas. ay. C<sup>t</sup> ay. N- J- ay. P<sup>a</sup> ay. M<sup>d</sup> no. Virg<sup>a</sup> ay.  
N. C. ay. <sup>S. C. ay.</sup> Geo. ay.

M<sup>r</sup> Madison proposed to fill the blank in the article with "Any seven or more States entitled to thirty three members at least in the House of Representatives according to the allotment made in the 3 Sect: of art: 4." This he said would require the concurrence of a majority of both the States and people.

M<sup>r</sup> Sherman doubted the propriety of authorizing less than all the States to execute the Constitution, considering the nature of the existing Confederation. Perhaps all the States may concur, and on that supposition it is needless to hold out a breach of faith.

M<sup>r</sup> Clymer and M<sup>r</sup> Carrol moved to postpone the consideration of Art: XXI in order to take up the Reports of Committees not yet acted on— On this question, <sup>the States were equally divided.</sup> N. H. ay. Mas. no. C<sup>t</sup> div<sup>d</sup> N. J— no. Pa<sup>a</sup> ay— Del— ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C no. S. C. no. G. ay.

["A motion was then made & rejected, for postponing art: XXI. in order to take up art. XXII." stricken out]

M<sup>r</sup> Gov<sup>r</sup> Morris moved to strike out "[<sup>of the</sup> "of the" stricken out] Conventions " after "ratifications". [<sup>and insert</sup> "and insert" stricken out] leaving the States to pursue their own modes of ratification.

M<sup>r</sup> Carrol mentioned the mode of altering the Constitution of Maryland pointed out therein, and that no other mode could be pursued in that State.

M<sup>r</sup> King thought that striking out "Conventions". as the requisite mode was equivalent to giving up the business altogether. Conventions alone, which will avoid all the obstacles from the complicated formation of the Legislatures, will succeed, and if not positively required by the plan, its enemies will oppose that mode.

M<sup>r</sup> Gov<sup>r</sup> Morris said he meant to facilitate the adoption of

the plan, ["to" stricken out]<sup>by leaving</sup> the modes approved by the several State Constitutions to be followed.

M<sup>r</sup> Madison considered it best to require Conventions; Among other reasons, for this, that the powers given to the Gen<sup>l</sup> Gov<sup>t</sup> being taken from the State ["Legis" stricken out] Gov<sup>ts</sup> the Legislatures would be more disinclined than conventions composed in part at least of other men; and if disinclined, they could devise modes apparently promoting, but really, thwarting the ratification. The difficulty in Maryland was no greater than in other States, where no mode of change was pointed out by the Constitution, and all officers were under oath to support it. The people were in fact, the fountain of all power, and by resorting to them, all difficulties were got over. They could alter constitutions as they pleased. It was a principle in the Bills of rights, that first principles might be resorted to.

M<sup>r</sup> McHenry said that the officers of Gov<sup>t</sup> in Maryland were under oath to support the mode of alteration prescribed by the Constitution.

M<sup>r</sup> Ghorum urged the expediency of "Conventions" also M<sup>r</sup> Pinkney, for reasons, formerly urged on a discussion of this question.

M<sup>r</sup> L. Martin insisted on a reference to the State Legislatures. He urged the danger of commotions from a resort to the people & to first principles<sup>in which the Governments might be on one side & the people on the other</sup>. He was apprehensive of ["any" stricken out]<sup>no such consequences</sup> however in Maryland, whether the Legislature or the people should be appealed to. Both of them would be generally against the Constitution. He ["urged" stricken out]<sup>repeated</sup> also the peculiarity in the Maryland Constitution.



M<sup>r</sup> King observed that the Constitution of Massachusetts was made unalterable till the year 1790, yet this was no difficulty with him. The State must have contemplated a recurrence to first principles before they sent deputies to this Convention.

M<sup>r</sup> Sherman moved to postpone art. XXI. & to take up art: XXII on which question,

N. H. no. Mas. no. C<sup>t</sup> ay- N. J. no- P. ay- Del- ay-  
M<sup>d</sup> ay. V<sup>a</sup> <sup>N. C. no</sup> ay. S. C no- Geo- no-

On M<sup>r</sup> Gov<sup>r</sup> Morris's motion to strike out "Conventions of the," it was negatived.

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay-  
V<sup>a</sup> no- S- C no- Geo. ay.

On filling the blank <sup>in Art: XXI</sup> with "thirteen" moved by M<sup>r</sup> Carrol,  
& L. Martin

N. H. no. Mas. no. C<sup>t</sup> no.—All no- except Maryland.

M<sup>r</sup> Sherman & M<sup>r</sup> Dayton moved to fill the blank with  
"ten"

M<sup>r</sup> Wilson supported the motion of M<sup>r</sup> Madison, ["to fill  
the blank with any seven or more States containing a  
majority" <sup>requiring a majority both</sup> stricken out] of the people and of States.

M<sup>r</sup> Clymer was also in favor of it.

Col: Mason was for preserving ideas familiar to the people.  
Nine States had been required in all great cases under the  
Confederation & that number was on that account preferable

On the question for "ten"

N. H. no. Mas. no. C<sup>t</sup> ay. N. J- ay. P<sup>a</sup> no. Del- no. M<sup>d</sup> ay.  
V<sup>a</sup> no. N. C. no. S. C. no. Geo. ay.

On question for "nine"

N- H. ay. Mas. ay. C<sup>t</sup> ay- N- J. ay. P<sup>a</sup> ay- Del. ay. M<sup>d</sup> ay-  
V<sup>a</sup> no. N. C. no. S. C. no. Geo- ay,

Art: XXI. <sup>as amended</sup> was then agreed to by all the States, Maryland excepted, & M<sup>r</sup> Jenifer being, ay—

Art: XXII: taken up, to wit, “This Constitution shall be laid before the U— S. in Cong<sup>s</sup> assembled for their approbation; and it is the opinion of this Convention that it should be afterwards submitted to a Convention chosen, <sup>in each State</sup> under the recommendation of its Legislature, in order to receive the ratification of such Convention”

M<sup>r</sup> Gov<sup>r</sup> Morris & M<sup>r</sup> Pinkney moved to strike out the words “for their approbation” On this question

N. H. ay. Mas. no. C<sup>t</sup> ay. N— J. <sup>ay</sup>. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> [<sup>no</sup> “ay” stricken out] V<sup>a</sup> ay. N. C— ay. S. C— ay. Geo. no.

M<sup>r</sup> Gov<sup>r</sup> Morris & Mr. Pinkney then moved to amend the art: so as to read

“This Constitution shall be laid before the U. S. in Congress assembled; and it is the opinion of this Convention that it should afterwards be submitted to a Convention chosen in each State, in order to receive the ratification of such Convention: to which end the several Legislatures ought to provide for the calling Conventions within their respective States as speedily as circumstances will permit”.—M<sup>r</sup> Gov<sup>r</sup> Morris said his object was to impress in stronger terms the necessity of calling Conventions in order to prevent enemies to the plan, from giving it the go by. When it first appears, with the sanction of this Convention, the people will be favorable to it. By degrees the State officers, & those interested in the State Gov<sup>ts</sup> will intrigue & turn the popular current against it.

M<sup>r</sup> L— Martin believed M<sup>r</sup> Morris to be right, that after a while the people would be ag<sup>t</sup> it. but for a different reason <sup>from</sup>

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\* In the printed Journal N— Jersey—no.

that alledged. He believed they would not ratify it unless hurried into it by surprize.

Mr Gerry enlarged upon the idea of Mr L. Martin in which <sup>he</sup> concurred, represented the system as full of vices, and dwelt on the impropriety of destroying the existing Confederation, without the unanimous Consent of the parties to it:

Question on Mr Gov<sup>r</sup> Morris's and Mr. Pinckney's motion

N. H- ay. Mas. ay. C<sup>t</sup> no. N- J. no. P<sup>a</sup> ay. Del- ay. M<sup>d</sup> no. V<sup>a</sup> no. N- C- no- S- C. no. Geo. no-

Mr Gerry moved to postpone art: XXII.

Col: Mason 2<sup>d</sup> the motion, declaring that he would sooner chop off his right hand than put it to the Constitution as it now stands. He wished to see some points not yet [illegible word stricken out] <sup>being compelled</sup> decided brought to a decision, before to give a final opinion on this article. Should these points be improperly settled, his wish would then be to bring the whole subject before another general Convention.

Mr Gov<sup>r</sup> Morris was ready for a postponement. He had long wished for another Convention, that will have the firmness to provide a vigorous Government, which we are afraid to do.

Mr Randolph stated his idea to be, in case the final form of the Constitution should not permit him to accede to it, that the State Conventions should be at liberty to propose amendments to be submitted to another General Convention which may reject or incorporate them, as shall be judged proper.

On the question for postponing

N. H. no. Mas. no. C<sup>t</sup> no. N. J- ay- P<sup>a</sup> no. Del. no. M<sup>d</sup> ay- V<sup>a</sup> no. N. C. ay. S- C. no. Geo. no.

["The blank being filled with 'Nine" stricken out]

On the question on Art: XXII

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay— Del. ay. M<sup>d</sup> no.  
V<sup>a</sup> ay. N— C. ay. S— C. ay. Geo. ay.

Art: XXIII being taken up. [“and” stricken out] as far the words “assigned by Congress” inclusive, was agreed to nem: con: the blank having been first filled with the word “nine” as of course.

On a motion for postponing the residue of the clause, concerning the choice of the President &c,

N. H. no. Mas. ay. C<sup>t</sup> no. N— J. no. P<sup>a</sup> no. Del. ay. Md. no.  
V<sup>a</sup> ay. N. C. ay. S— C. no. Geo. no.

M<sup>r</sup> Gov<sup>r</sup> Morris then moved to strike out the words “choose the President of the U. S. and”—this point, of choosing the President not being yet finally determined, & on this question

N— H— no. Mas. ay. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> div<sup>d</sup>  
V<sup>a</sup> ay. N— C. ay— S. C. ay— Geo. ay

Art: XXIII as amended was then agreed to nem: con:

The Report of the grand Committee of eleven made by M<sup>r</sup> Sherman was then taken <sup>up</sup> [see Aug: 28].

On the question to agree to the following clause, to be inserted after sect— 4. art: VII. “nor shall any regulation of commerce or revenue give preference to the ports of one State over those of another”. Agreed to nem: con:

On the clause “or oblige vessels bound to or from any State to enter clear or pay duties in another”

M<sup>r</sup> Madison thought the restriction w<sup>d</sup> be inconvenient, as in the River Delaware, if a vessel cannot be required to [“enter” stricken out] <sup>make entry</sup> below the jurisdiction of Pennsylvania.

M<sup>r</sup> Fitzimmons admitted that it might be inconvenient, but thought it would be a greater inconveniency to require vessels

bound to Philad<sup>a</sup> to enter ["in the So" stricken out] below the jurisdiction of the State.

M<sup>r</sup> Gorham & M<sup>r</sup> Langdon, contended that the Gov<sup>t</sup> would be so fettered by this clause, as to defeat the good purpose of the plan. They mentioned the ["case of" stricken out] situation of the trade of Mas. & N. Hampshire, the case of Sandy Hook which is in the State of N. Jersey, but where precautions ag<sup>st</sup> smuggling into N. York, ought to be established by the Gen<sup>l</sup> Government.

M<sup>r</sup> M<sup>c</sup>Henry said the clause would not shreen a vessel from being obliged to take an officer on board as a security for due entry &c-.

M<sup>r</sup> Carrol was anxious that the clause should be agreed to. He assured the House, that this was a tender point in Maryland.

M<sup>r</sup> Jenifer urged the necessity of the clause in the same point of view

On the question for agreeing to it

N. H. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N- C- ay. S- C. no. Geo. ay,

The word "tonnage" was struck out, <sup>nem: con:</sup> as comprehended in "duties"

On question On the clause of the Report "and all duties, imposts & excises, laid by the Legislature shall be uniform throughout the U. S." It was agreed to <sup>nem: con:</sup>\*

On motion of M<sup>r</sup> Sherman it was agreed to refer such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on, to a Committee of a member from each State; the Committee appointed by ballot, being- M<sup>r</sup> Gilman, M<sup>r</sup> King. M<sup>r</sup> Sherman. M<sup>r</sup> Brearley, M<sup>r</sup>

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\* In printed Journal N. H. and S. C. entered as in the negative.

Gov<sup>r</sup> Morris, M<sup>r</sup> Dickinson, M<sup>r</sup> Carrol, M<sup>r</sup> Madison, M<sup>r</sup> Williamson, M<sup>r</sup> Butler & M<sup>r</sup> Baldwin.

[The House adjourned]

Saturday Sep<sup>r</sup> 1. 1787. In Convention.

M<sup>r</sup> Brearley from the Comm<sup>e</sup> of eleven to which were referred yesterday, the postponed part of the Constitution, & parts of Reports not acted upon, made the following partial report.

That in lieu of the 9<sup>th</sup> sect: of art: 6. the words following be inserted viz "The members of each House shall be ineligible to any civil office under the authority of the U. S. during the time for which they shall respectively be elected, and no person holding an office under the U. S. shall be a member of either House during his continuance in office."

M<sup>r</sup> Rutlidge from the Committee to whom were referred sundry propositions (see Aug: 29), together with art: XVI, reported that the following additions be made to the Report—viz.

After the word "States" in the last line on the Margin of the 3<sup>d</sup> page (see the printed Report)—add "to establish uniform laws on the subject of Bankruptcies"

and insert the following as Art: XVI—viz

"Full faith and credit ought to be given in each State to the public acts, records, and Judicial proceedings of every other State, and the Legislature shall by general laws prescribe the manner in which such acts, Records, & proceedings shall be proved, and the effect which Judgments obtained in one State, shall have in another".

After receiving these reports

The House adjourned to 10 oC. on Monday next



Monday Sep<sup>r</sup> 3. 1787. In Convention

M<sup>r</sup> Gov<sup>r</sup> Morris moved to amend the Report concerning the respect to be paid to Acts Records &c of one State, ["in" written upon "by"] other States (see Sep<sup>r</sup> 1.) by striking out "judgments obtained in one State shall have in another" and to insert the word "thereof" after the word "effect"

Col: Mason favored the motion, particularly if the "effect" was to be restrained to judgments & Judicial proceedings

M<sup>r</sup> Wilson remarked, that if the Legislature were not ["to" stricken out] allowed to declare the effect ["as propos" stricken out] the provision would amount to nothing more than what now takes place among all Independent Nations.

Doc<sup>r</sup> Johnson thought the amendment <sup>as worded</sup> would authorize the Gen<sup>l</sup> Legislature to declare the effect of Legislative acts of one State, in another State.

M<sup>r</sup> Randolph considered it ["as" written upon "is"] strengthening the general objection ag<sup>t</sup> the plan, that its definition of the ["gener" stricken out] powers of the Government was so loose as to give it opportunities of usurping all the State powers. He was for not going farther than ["n" written upon "t"] the Report, which enables the Legislature to provide for the ["case" stricken out] <sup>effect</sup> of Judgments.

On the amendment as moved by M<sup>r</sup> Gov<sup>r</sup> Morris

["N. H. ay—" stricken out] Mas. ay. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. ["Del. —" stricken out] M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. no.

On motion of M<sup>r</sup> Madison, "ought to" was struck out, and "shall" inserted; and "shall" ["after" stricken out] <sup>between</sup> "Legislature" & "by general laws" struck out, and "may" inserted, nem: con:

On the question to agree to the report as amended viz

"Full faith & credit shall be given in each State to the public acts, records & judicial proceedings of every other State, and the Legislature may by general laws prescribe the manner in which such acts records & ["judicial" stricken out] proceedings shall be proved, and the effect ["thereof" written upon "they shall"] Agreed to with<sup>t</sup> a count of Sts.

The clause in the Report "To establish uniform laws on the subject of Bankruptcies" being taken up.

M<sup>r</sup> Sherman observed that Bankruptcies were in some cases punishable with death by the laws of England- & He did not chuse to grant a power by which that might be done here.

M<sup>r</sup> Gov<sup>r</sup> Morris said this was an extensive & delicate subject. He would agree to it because he saw no danger of abuse ["of" written upon "by"] the power by the Legislature of the U- S.

On the question to agree to the clause

N. H. ay. Mas. ay. C<sup>t</sup> no. N. J- ay- P<sup>a</sup> ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay- Geo. ay.

M<sup>r</sup> Pinkney moved to postpone the Report of the Committee of Eleven (see Sep<sup>r</sup> 1) in order to take up the following,

"The members of each House shall be incapable of holding any office under the U- S- for which they or any ["of them" stricken out] other for their benefit, receive any salary, fees or emoluments of any kind, and the acceptance of such office shall vacate their seats respectively." He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honorable offices of Government, as resembling the policy of the Romans, in ["paving"

stricken out] making the temple of virtue the road to the temple of fame.

On this question

N. H. no. Mas. no. C<sup>t</sup> no- N- J. no. P<sup>a</sup> ay. M<sup>d</sup> no. V<sup>a</sup>. no.  
N. C. ay. S. C- no. Geo. no.

M<sup>r</sup> King moved to insert the word "created" before the word "during" in the Report of the Committee. This he said would exclude ["most who" stricken out] the members of the first Legislature under the Constitution, as most of the Offices w<sup>d</sup> then be created.

M<sup>r</sup> Williamson 2<sup>d</sup> the motion, ["tho' he" stricken out]  
<sup>He</sup> did not see why members of the Legislature should be ineligible to vacancies happening during the term of their election, ["since they could not be influenced by an event wh<sup>t</sup> was in this contingency." stricken out]

M<sup>r</sup> Sherman was for entirely incapacitating members of the Legislature. He thought their eligibility to offices would give too much influence to the Executive. He said the incapacity ought at least to be extended to cases where salaries should be increased, as well as created, during the term of the member. He mentioned also the expedient by which the restriction could be evaded to wit: an existing officer might be translated to an office created, and a member of the Legislature be then ["app" stricken out] put into the office vacated.

M<sup>r</sup> Gov<sup>r</sup> Morris contended that the eligibility of members to office w<sup>d</sup> lessen the influence of the Executive. If they cannot be appointed themselves, the Executive will appoint their relations & friends, retaining the service & votes of the members for his purposes in the Legislature. Whereas the appointment of the members deprives him of such an advantage.

M<sup>r</sup> Gerry. thought the eligibility of members would have the effect of opening batteries ag<sup>st</sup> good officers, in order to drive them out & make way for members of the Legislature.

M<sup>r</sup> Gorham was in favor of the amendment. Without <sup>it</sup> we go further than has been done in any of the States, or indeed any other Country, The experience of the State Governments where there was no ineligibility, proved that it was not necessary; on the contrary that [<sup>such</sup> "it" stricken out] <sup>the eligibility</sup> was among the inducements for fit men to enter into the Legislative service

M<sup>r</sup> Randolph was inflexibly fixed against inviting men into the Legislature by the prospect of being appointed to offices.

M<sup>r</sup> Baldwin remarked that the [<sup>example</sup> "case" stricken out] of the States was not applicable. The Legislatures there are so numerous that an exclusion of their members would not leave proper men for offices. The case would be otherwise in the General Government.

Col: Mason. Instead of excluding merit, the ineligibility will [<sup>keep out</sup> "exclude" stricken out] corruption, by excluding office-hunters.

M<sup>r</sup> Wilson considered the exclusion of members of the Legislature as increasing the influence of the Executive as observed by M<sup>r</sup> Gov<sup>r</sup> Morris at the same time that it would diminish, the general energy of the Government. He [<sup>Report of the Committee or even the</sup> "said" stricken out] said that the legal disqualification for office would be odious to those who did not wish for office, but did not wish either to be marked by so degrading a distinction—

M<sup>r</sup> Pinkney. The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the amend-<sup>ment</sup> be [<sup>Report of the Committee or even the</sup> "dis" stricken out] agreed to, The great offices,

even those of the Judiciary Department which are <sup>to</sup> continue for life, must be filled whilst those most capable of filling them will be under a disqualification

On the question on Mr King's motion

N- H. ay. Mas. ay- C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. M<sup>d</sup> no. V<sup>a</sup> ay  
N- C. ay. S- C. no. Geo- no.

The amendment being thus lost by the equal division of the States, Mr Williamson moved to insert the words "created or the emoluments whereof shall have been increased" before the word "during" in the Report of the Committee

Mr King 2<sup>d</sup> the motion. & ["on" effaced]

On the question

N- H- ay- Mas- ay- C<sup>t</sup> no. N- J. no. P<sup>a</sup> ay. M<sup>d</sup> no. V<sup>a</sup> ay.  
N- C. ay. S. C. no. Geo- divided.

The last clause rendering a Seat in the Legislature & an office incompatible was agreed to nem: con:

The Report as amended & agreed to is as follows.

"The members of each House shall be ineligible to any Civil office under the authority of the U. States, created, or the emoluments whereof shall have been increased during the time for which they shall respectively be elected—And no person holding any office under the U. S. shall be a member of either House during his continuance in office."

Adjourned

Tuesday Sep<sup>r</sup> 4. 1787. In Convention

Mr Brearley from the Committee of eleven made a further partial Report as follows

"The Committee of Eleven to whom sundry resolutions

&c were referred on the 31<sup>st</sup> of August, report that in their opinion the following additions and alterations should be made to the Report before the Convention, viz

\*(1.) The first clause of sect: 1. art. 7. to read as follow—‘The Legislature shall have power to lay and collect taxes duties imposts & excises, to pay the debts and provide for the common defence & general welfare of the U. S.’

(2). At the end of the 2<sup>d</sup> clause of sect. 1. art. 7. add ‘and with the Indian tribes’.

(3) In the place of the 9<sup>th</sup> art: Sect. 1. to be inserted ‘The Senate of the U- S- shall have power to try all impeachments; but no person shall be convicted without the concurrence of two thirds of the members present.’

(4) After the word ‘Excellency’ in sect. 1. art. 10. to be inserted. ‘He shall hold his office during the term of four years, and together with the vice-President, chosen for the same term, be elected in the following manner, viz. Each State shall appoint in such manner as its Legislature may direct, a number of electors equal to the whole number of Senators and members of the House of Representatives, to which the State may be entitled in the Legislature. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify and transmit sealed to the Seat of the. Gen<sup>l</sup> Government, directed to the President of the Senate—The President of the Senate shall in that House open all the certificates;

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\*This is an exact copy. The variations in that in the printed Journal are occasioned by its [“being” stricken out] incorporation of subsequent amendments. This remark is applicable to other cases.



and the votes shall be then & there counted. 'The Person having the greatest number of votes shall be the President, if such number be a majority of that of the electors; and if there be more than one who have such a majority, and have an equal number of votes, then the Senate shall immediately choose by ballot one of them for President: but if no person have a majority, then from the five highest on the list, the Senate shall choose by ballot the President. And in every case after the choice of the President, the person having the greatest number of votes shall be vice-president: but if there should remain two or more who have equal votes, the Senate shall choose from them the vice-President. The Legislature may determine the time of choosing and assembling the Electors, and the manner of certifying and transmitting their votes.'

(5) 'Sect. 2. No person except a natural born citizen or a Citizen of the U- S- at the time of the adoption of this Constitution shall be eligible to the office of President; nor shall any person be elected to that office, who shall be under the age of thirty five years, and who has not been in the whole, at least fourteen years a resident within the U- S.'

(6) 'Sect- 3- The vice-president shall be ex officio ["President" stricken out] President of the Senate, except when they sit to try the impeachment of the President, in which case the Chief Justice shall preside, and excepting also when he shall exercise the powers and duties of President, in which case & in case of his absence, the Senate shall chuse a President pro tempore.—The vice President when acting as President of the Senate shall not have a vote unless the House be equally divided.'

(7) 'Sect- 4 The President by and with the advice and

Consent of the ["President" stricken out] Senate, shall have power to make Treaties; and he shall nominate and by and with the advice and consent of the Senate shall appoint ambassadors, and other public Ministers, Judges of the Supreme Court, and all other Officers of the U- S-, whose appointments are not otherwise herein provided for. But no Treaty shall be made without the consent of two thirds of the members present.'

(8) After the words "into the service of the U S." in sect. 2. art: 10. add 'and may require the opinion in writing of the principal Officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices.'

The latter part of Sect. 2. Art: 10. to read as follows.

(9) 'He shall be removed from his office on impeachment by the House of Representatives, and conviction by the Senate, for Treason, or bribery, and in case of his removal as aforesaid, death, absence, resignation or inability to discharge the powers or duties of his office, the vice-president shall exercise those powers and duties until another President be chosen, or until the inability of the President be removed.'

The (1<sup>st</sup>) clause of the Report was agreed to nem. con.

The (2) clause was also agreed to nem: con:

The (3) clause was postponed in order to decide previously on the mode of electing the President-

The (4) clause was accordingly taken up.

Mr Gorham disapproved of making the next highest after the President, the vice-President, without referring the ["choice" stricken out] decision to the Senate in case the next highest should ["not" stricken out] have less than a

majority of votes. as the regulation stands a very obscure man ["may possibly be preferred" stricken out] with very few votes may arrive at that appointment

M<sup>r</sup> Sherman said the object of this ["part" stricken out]  
clause of the report of the Committee was to get rid of the ineligibility, which was attached to the mode of election by the Legislature, & to render the Executive independent of the Legislature. ["As" written upon "The"] the choice of the President was to be made out of the five highest, obscure characters were sufficiently guarded against in that case: And he had no objection to requiring the vice-President to be chosen in like manner, where the choice was not decided by a majority in the first instance

M<sup>r</sup> Madison was apprehensive that by ["most" stricken out] requiring both the President & vice President to be chosen out of the five highest candidates, the attention of the electors would be turned too much to making candidates instead of giving their votes in order to a definitive choice, ["at most of the vice President" stricken out]. Should this turn be given to the business, the election would in fact be consigned to the Senate altogether. It would have the effect at the same time, he observed, of giving the nomination of the candidates to the largest States.

M<sup>r</sup> Gov<sup>r</sup> Morris concurred in, & enforced the remarks of M<sup>r</sup> Madison.

M<sup>r</sup> Randolph & M<sup>r</sup> Pinkney wished for a particular explanation & discussion of the reasons for changing the mode of electing the Executive.

M<sup>r</sup> Gov<sup>r</sup> Morris said he would give the reasons of the Committee and his own. The 1<sup>st</sup> was the danger of intrigue & faction if the appointment should be made by the Legis-

lature. 2 the inconveniency of an ineligibility required by that mode in order to lessen its evils. 3 The difficulty of establishing a Court of Impeachments, other than the Senate <sup>nor the ["House of Rep" stricken out] other branch for the impeachment</sup> which would not be so proper for the trial of the President, <sup>[" " stricken out]</sup> if appointed by the Legislature, 4. No body had appeared to be satisfied with an appointment by the Legislature. 5. Many were anxious even for an immediate choice by the people— 6— the indispensable necessity of ["keeping" stricken out] making the Executive independent of the Legislature.—As the Electors would vote at the same time throughout the U. S. and at so great a distance from each other, the great evil of cabal was avoided. It would be impossible also to corrupt them. ["The" stricken out] <sup>A conclusive</sup> reason for making the Senate ["and" stricken out] instead of the Supreme Court the Judge of impeachments, was that the latter was to try the President after the trial of the impeachment.

Col: Mason confessed that the plan of the Committee had removed some capital objections, particularly the danger of cabal and corruption. It was liable however to this strong objection, that nineteen times in twenty the President would be chosen by the Senate, an improper body for the purpose.

Mr Butler thought the mode not free from objections, but ["more" stricken out] much more so than an election by the Legislature, where as in elective monarchies, cabal faction & violence would be sure to prevail.

Mr Pinkney stated as objections to the mode 1. that it threw the whole appointment in fact into the hands of the Senate. 2— The Electors will be strangers to the several candidates and of course unable to decide on their comparative merits. 3. It makes the Executive reeligible which will

endanger the public liberty. 4. It makes the same body of men which will in fact elect the President his Judges in case of an impeachment.

Mr Williamson had great doubts whether the advantage of reeligibility would balance the objection to such a dependence of the President on the Senate for his reappointment. He thought at least the Senate ought to be restrained to the two highest on the list

Mr Gov<sup>r</sup> Morris said the principal advantage aimed at was that of taking away the opportunity for cabal. The President may be made if thought necessary ineligible on this ["plan" stricken out] as well as <sup>on</sup> any other mode of election. Other inconveniences may be no less redressed on this plan than any other.

Mr Baldwin thought the plan not so objectionable when well considered, as at first view. The increasing intercourse among the people of the States, would render important characters less & less <sup>un-</sup>known; and the Senate would consequently be less & less likely to have the eventual appointment thrown into their hands.

Mr Wilson. This subject has greatly divided the House, and will ["so" stricken out] <sup>also divide</sup> the people out of doors. It is in truth the most difficult of all on which we ["have" written upon "had"] to decide. He had never made up an opinion on it entirely to his <sup>own</sup> satisfaction. He thought <sup>the</sup> plan on the whole a valuable improvement on the former. It gets rid of one great evil, that of cabal & corruption; & Continental Characters will multiply as we more & more coalesce, so as to enable the electors in every part of the Union to know & judge of them. It clears the way also for a discussion of the question of re-eligibility on its own merits, which the former

mode of election seemed to forbid. He thought it might be better <sup>however</sup> to refer the eventual appointment to the Legislature than to the Senate, and to confine <sup>it</sup> to a smaller number than five of the Candidates. The eventual election ["by" written upon "of"] the Legislature w<sup>d</sup> not open cabal anew, as it would be restrained to certain designated objects of choice, and as these must have had the previous sanction of a number of the States: and if the election be made as it ought as soon as the votes of the electors are opened & it is known that no one has a majority of the whole, there can be little danger of corruption— Another reason for preferring the Legislature to the Senate in this business, was that the House of Rep<sup>s</sup> will be so often changed as to <sup>be free from the influence & faction</sup> ["break from its accustomed spirit of faction & intrigue in which the Senate retains" stricken out] to which the permanence of the Senate may subject th["at" written upon "em"] branch—

M<sup>r</sup> Randolph preferred the former ["mode of election" stricken out] mode of constituting the Executive, but if the change was to be made, he wished to know why the eventual election was referred to the Senate and not to the Legislature? He saw no necessity for this and many objections to it. He was apprehensive also that the advantage of the eventual appointment would fall into the hands of the States near the Seat of Government.

M<sup>r</sup> Gov<sup>r</sup> Morris said the Senate was preferred because fewer could then, sa["y" written upon "id"] to the President, you owe your appointment to us. He thought the President would not depend so much on the Senate for his re-appointment as on his general good conduct.

["The Remainder of the" stricken out] The further



consideration of the Report was postponed that each member might take a copy of the remainder of it.

The following motion was referred to the Committee of Eleven—to wit,—“To prepare & report a plan for defraying the expenses of the Convention”

\*M<sup>r</sup> Pinkney moved a clause declaring “that each House should be judge of the privilege of its own members. M<sup>r</sup> Gov<sup>r</sup> Morris 2<sup>d</sup> the motion

M<sup>r</sup> Randolph & M<sup>r</sup> Madison expressed doubts as to the propriety of [“the regulation” stricken out] giving such a power, & wished for a postponement.

M<sup>r</sup> Gov<sup>r</sup> Morris thought it so plain a case that no postponement could be necessary.

M<sup>r</sup> Wilson thought the power involved, and the express insertion of it needless. It might beget doubts as to the power of other public bodies, as Courts &c. Every Court is the judge of its own privileges.

M<sup>r</sup> Madison distinguished between the power of Judging of privileges previously <sup>& duly</sup> established, and the effect of the motion which would give a discretion to each House as to the extent of its own privileges. He suggested that it would be better to <sup>make provision</sup> [“authorise a provision by law” stricken out] for ascertaining by law, the privileges of each House, than to allow each House to decide for itself. He suggested also the necessity of considering what privileges ought to be allowed to the Executive.

Adjourned

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\*This motion not inserted in the printed Journal

Wednesday Sep<sup>r</sup> 5. 1787 In Convention.

M<sup>r</sup> Brearley from the Committee of Eleven made a farther report as follows,

(1) To add to the clause "to declare war" the words "and grant letters of marque and reprisal"

(2) To add to the clause "to raise and support armies" the words "but no appropriation of money to that use shall be for a longer term than two years"

(3) Instead of sect: 12. art 6. say—"All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate: No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

(4) Immediately before the last clause of Sect. 1. art. 7—insert "To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by Cession of particular States and the acceptance of the Legislature become the seat of the Government of the U- S- and to exercise like authority over all places purchased for the erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful buildings"

(5) "To promote the progress of Science and useful arts by securing for ["a" stricken out] limited times to authors & inventors, the exclusive right to their respective writings and discoveries"

This report being taken up.—The (1) clause was agreed to nem. con:

To the (2) clause M<sup>r</sup> Gerry objected that <sup>it</sup> admitted of appropriations to an army. for two years instead of one, for which he could not conceive a reason— that it implied there was to be a standing arm["y" written upon "ed"] which he

inveighed against as dangerous to liberty, as unnecessary even for so great an extent of Country as this. and if necessary, [<sup>some restriction on the number & duration</sup> "this was not" stricken out] ought to be provided. Nor was this a proper time for such an innovation. The people would not bear it.

M<sup>r</sup> Sherman remarked that the appropriations were permitted only, not required to be for two years. As the Legislature is to be biennially elected, it would be inconvenient to require appropriations to be for one year, as there might be no Session within the time <sup>necessary to renew them</sup>. He should himself he said like a reasonable restriction on the number and continuance of an army in time of peace.

The clause (2). was agreed to nem: con:

The (3) clause, M<sup>r</sup> Gov<sup>r</sup> Morris moved to postpone— It had been agreed to in the Committee on the ground of compromise, and he should feel himself at liberty to dissent to it; if on the whole he should not be satisfied with certain other parts [<sup>"of the"</sup> stricken out] to be settled.—M<sup>r</sup> Pinkney 2<sup>ded</sup> the motion

M<sup>r</sup> Sherman was for giving immediate ease to those who looked on this clause as of great moment, and for trusting to their concurrence in other proper measures.

On the question for postponing

N- H- ay- Mas- no. C<sup>t</sup> ay. N- J- ay- P<sup>a</sup> ay- Del. ay. M<sup>d</sup> ay- V<sup>a</sup> no. N- C- ay- S. C ay- Geo ay.

So much of the (4) clause as related to the seat of Government was agreed to nem: con:

On the residue, to wit, "to exercise like authority over all places purchased for forts &c.

M<sup>r</sup> Gerry contended that this power might be made use of to enslave any particular State [<sup>"awed thereby by giving a ground"</sup> stricken out] by buying up its territory, and that

th["e" written upon "ese"] strongholds proposed ["might  
would be a means of awing  
 awe the same" stricken out] the State into an undue obedience to the Gen<sup>l</sup> Government—

Mr King thought the provision unnecessary, the power being already involved: but ["in order" stricken out] would move to insert after the word "purchased" the words "by the consent of the Legislature of the State" This would certainly make the power safe.

Mr Gov<sup>r</sup> Morris 2<sup>d</sup> the motion, which was agreed [["nem: con:" stricken out] "to" stricken out] to nem: con: as was then the residue of the clause as amended.

The (5) clause was agreed to nem: con:

The following resolution & order being reported from the Committee of eleven, to wit,

"Resolved that the U-S- in Congress be requested to allow and cause to be paid to the Secretary and other officers of this Convention such sums in prop[or["or" stricken out]tion to their respective ["services" stricken out] times of service, as are allowed to the Secretary & similar officers of Congress."

"Ordered that the Secretary make out & transmit to the Treasury office of the U. S. an account of the said Services, & for the incidental expenses of this convention"

The resolution & order were separately agreed to nem: con:

Mr Gerry gave notice that he should move to reconsider articles XIX. XX. XXI. XXII.

Mr Williamson gave like notice as to the Article fixing the number of Representatives, which he thought too small. He wished also to allow Rho: Island more than one, ["whi" stricken out] as due to her probable number of people, and as proper to stifle any pretext arising from her absen["ce" written upon "t"] on the occasion.

The Report made yesterday as to the appointment of the Executive being then taken up. ["and" stricken out] M<sup>r</sup> Pinkney renewed his opposition to the mode, arguing 1. that the electors will not have sufficient knowledge of the fittest men, & will be swayed by an attachment to the eminent men of their respective States— Hence 2<sup>dly</sup> the dispersion of the votes would leave the appointment with the Senate, and as the President's reappointment will thus depend on the Senate he will be the mere creature of that body. 3. He will combine with the Senate ag<sup>st</sup> the House of Representatives. 4. This change in the mode of election was meant to get rid of the ineligibility of the President a second time, whereby he will become fixed for life under the auspices of the Senate

M<sup>r</sup> Gerry did not object to this ["mode in itself" stricken out] <sup>plan of constituting</sup> the Executive in itself, but should be governed in his final vote by the powers that may be given to the President.

M<sup>r</sup> Rutledge was much opposed to the plan reported by the Committee. It would throw the whole power into the Senate. He was also against a re-eligibility. He moved to postpone the Report ["before" stricken out] under consideration & take up the original plan of appointment by the Legislature.

<sup>ballot</sup> to wit "He shall be elected by joint by the Legislature to which election a majority of the votes of the members present shall be required: He shall hold his office during the term of Seven years; but shall not be elected a second time"

On this motion to postpone

N- H- div<sup>d</sup> Mas. no- C<sup>t</sup> no- N- J. no. P<sup>a</sup> no- Del- no. M<sup>d</sup> no- V<sup>a</sup> no. N. C. ay- S. C. ay- Geo. no.

Col. Mason admitted that there <sup>were</sup> objections to an appointment as originally planned. He had not yet made up his mind; ["on that" stricken out] but would state his objections to the mode proposed by the Committee. 1. It puts the appointment in fact into the hands of the Senate, as it will rarely happen that a majority of the whole votes will fall on

any one candidate: and as the Existing President will always be one of the 5 highest, his re-appointment will of course depend on the Senate. 2. Considering the powers of the President & those of the Senate, if a coalition should be established between these two branches, they will be able to subvert the Constitution.—[“The <sup>The great objection with</sup> great objection with” stricken out] him would be removed by depriving the Senate of the eventual election. He accordingly moved to strike out the words “if such number be a majority of that of the electors”

Mr Williamson 2<sup>d</sup> the motion. He could not agree to the clause without some such modification. He preferred [“agreeing to” stricken out] making the highest tho’ not having a majority of the votes, President, to a reference of the matter to the Senate. Referring the appointment to the Senate lays a certain foundation for corruption & aristocracy.

Mr Gov<sup>r</sup> Morris thought the point of less consequence than it was supposed on both sides. It is probable that a majority of the votes will fall on the same man, As each elector is to give two votes, [“if” stricken out] more than  $\frac{1}{4}$  will give a majority. Besides as one vote is to be given to a man out of the State, and as this vote will not be thrown away,  $\frac{1}{2}$  the votes will fall on characters eminent & generally known. Again if the President shall have given satisfaction, the votes will turn on him of course, and a majority of them will reappoint him, without resort to the Senate: If he should be disliked, all disliking him, would take care to unite their votes so as to ensure his being supplanted.

Col: Mason those who think there is no danger of there



not being a majority for the same person in the first instance, ought to give up ["to" stricken out] the point to those who think otherwise.

M<sup>r</sup> Sherman reminded the opponents of the new mode proposed that if the Small States had the advantage in the Senate's deciding among the five highest candidates, the Large States ["will" stricken out] would have in fact the nomination of these candidates

["M<sup>r</sup> Wilson remarked that striking the words out would have the effect of inducing the large States to throw away the vote to be given to a person out of the State in order to increase the chances of its <sup>own</sup> Citizen." stricken out]

On the motion of Col: Mason

N. H. no— Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> <sup>†</sup>ay.  
V<sup>a</sup> no— N. C. ay. S— C. no. Geo. no

M<sup>r</sup> Wilson moved to strike out "Senate" and insert the word "Legislature"

M<sup>r</sup> Madison considered it a primary object to ["keep" stricken out] render an eventual resort to any part of the Legislature improbable. He was apprehensive that ["if the motion is" stricken out] <sup>the</sup> proposed alteration would turn the attention of the large States too much to the appointment of candidates, instead of aiming at an effectual appointment of the officer, as the large States would predominate in the Legislature which would have the final choice out of the Candidates. Whereas if the Senate ["should have" stricken out] in which the small States <sup>the concerted effort of</sup> predominate should have the final choice, the large States would be to make the appointment in the first instance conclusive.

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\* In printed Journal Maryland—no

Mr Randolph. We have in some revolutions of this plan made a bold stroke for Monarchy. We are now doing the same for an aristocracy. He dwelt on the ["danger" stricken out] tendency of such an influence in the Senate over the election of the President <sup>in addition to its other powers,</sup> to convert that body into a real & dangerous Aristocracy—

Mr Dickinson was in favor of giving the eventual election to the Legislature, instead of the Senate— It was too much influence to be <sup>super</sup>added to that body—

On the question moved by Mr Wilson

N. H— div<sup>d</sup> Mas. no— C<sup>t</sup> no— N— J— no. P<sup>a</sup> ay. Del— no. M<sup>d</sup> no. V<sup>a</sup> ay— N— C. no— S. C. ay. Geo. no.

Mr Madison & Mr Williamson moved to strike out the word "majority" and insert "one third" so that the eventual power might not be exercised if less than a majority, but not less than  $\frac{1}{3}$  of the Electors should vote for the same person—

Mr Gerry objected that this would put it in the power of three or four States to put in whom they pleased.

Mr Williamson. There are seven States which do not contain one third of the people— If the Senate<sup>l</sup> are to appoint, less than one sixth of the people will have the power—

On the question

N. H— no. Mas. no— C<sup>t</sup> no— N. J— no. P<sup>a</sup> no. Del. no. M<sup>a</sup> no— V<sup>a</sup> ay. N— C. ay. S. C no. Geo. no.

Mr Gerry suggested that the eventual election should be made by six Senators and seven Representatives chosen by joint ballot of both Houses.

Mr King observed that the influence of the Small States in the Senate was somewhat balanced by the influence of the

large States in bringing forward the candidates,\* and also by the Concurrence of the small States in the Committee in the clause vesting the exclusive origination of Money bills in the House of Representatives.

Col: Mason moved to strike out the word "five" and insert the word "three" as the highest candidates for the Senate <sup>to</sup> choose out of—

Mr. Gerry 2<sup>ded</sup> the motion

Mr. Sherman would sooner give up the plan. He would prefer seven or thirteen.

On the question moved ["by" written upon "Col"] Mason and Mr. Gerry

N. H. no— Mas. no— C<sup>t</sup> no. N— J. no. [" " stricken out]  
Pa<sup>a</sup> no. <sup>Delaware</sup> M<sup>d</sup> [<sup>no</sup> "ay" stricken out] V<sup>a</sup> ay— N— C— ay— S. C. no—  
Geo— no.

Mr. Spaight and Mr. Rntlidge moved to strike out "five" and insert "thirteen"—to which all the States disagreed—except N— C. & S— C—

Mr. Madison & Mr. Williamson moved to insert after "Electors" the words "who shall have balloted" so that the non voting electors ["should" stricken out] <sup>not</sup> ["being" written upon "be"] counted ["and thus increase the majority" <sup>might not increase the number</sup> stricken out] necessary as a majority of the whole— to decide the choice without the agency of the Senate—

On this question

N. H— no. Mas— no. C<sup>t</sup> [<sup>no</sup> "ay" stricken out]. N. J— no. Pa<sup>a</sup> ay.  
Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay— N— C. ay. S— C— no. Geo. no

Mr. Dickinson moved, in order to remove ambiguity from

\*This explains the compromise mentioned above by Mr. Gov<sup>r</sup> Morris— Col: Mason Mr. Gerry & other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States who wished a high mounted Gov<sup>t</sup>, endeavored to avail themselves, by making that privilege, the price of arrangements in the constitution favorable to the small States, and to the <sup>elevation</sup> ["dignity" stricken out] of the Government.

the intention of the clause as explained by the vote, to add, after the words "if such number be a majority of the whole "number of the Electors" the word "appointed"

On this motion

N. H. ay. Mas- <sup>Con: ay</sup> ay- N- J- ay- Pa <sup>Delaware</sup> ay. M<sup>d</sup> ay- V<sup>a</sup> no.  
N. C. no. S- C. ay- Geo. ay.

Col: Mason. As the mode of appointment is now regulated, he could not forbear expressing his opinion that it is utterly inadmissible. He would prefer the Government of Prussia to one which will put all power into the hands of seven or eight men, and fix an Aristocracy worse than absolute monarchy.

The words "and of their giving their votes" being inserted on motion for that purpose, after the words "The Legislature may determine the time of chusing and assembling the Electors"

The House adjourned.

Thursday Sep<sup>r</sup> 6. 1787- In Convent<sup>n</sup>

M<sup>r</sup> King and M<sup>r</sup> Gerry <sup>in the (5) clause of the Report (see Sep<sup>r</sup> 4)</sup> moved to insert after the words "may be entitled in the Legislature" the words following—  
"But no person shall be appointed an elector who is a member of the Legislature of the U. S. or who holds any office of profit or trust under the U. S." which passed nem: con:

M<sup>r</sup> Gerry proposed, ["as" written upon "if"] <sup>as</sup> the President was to be elected by the Senate out of the five highest candidates, that if he should not at the end of his term be re-elected by a majority of the Electors, and no other candidate should have a majority, the eventual election should be made by the

Legislature— This he said would relieve the President from <sup>particular</sup> his dependence on the Senate for his continuance in office.

Mr King liked the idea, as calculated to satisfy particular members & promote unanimity; & as likely to operate but seldom.

Mr Read opposed it, remarking that if individual members were to be indulged, alterations would be necessary to satisfy most of them—

Mr Williamson espoused it as a reasonable precaution against the undue influence of the Senate.

Mr Sherman liked the arrangement as it stood, though he should not be averse to some amendments. He [“thought” stricken out] thought he said that if the Legislature were to have the eventual appointment instead of the Senate, it ought to vote in the case by States, in favor of the small States, as the large States would have so great an advantage in nominating the candidates—

Mr Gov<sup>r</sup> Morris thought favorably of Mr Gerry's proposition. It would free the President from being tempted in [“ap” stricken out] naming to Offices. to Conform to the will of the Senate, & thereby virtually [“giving” stricken out] <sup>give</sup> the appointments to office, to the Senate.

Mr Wilson said that he had weighed carefully the report of the Committee for remodelling the constitution of the Executive; and on combining it with other parts of the plan, he was obliged to consider the whole as having a dangerous tendency to aristocracy; as throwing a dangerous power into the hands of the Senate, They will have [“the” stricken out] in fact, the appointment of the President, and through his dependence on them, the virtual appointment to offices; among others the offices of the Judiciary Depart-

ment. They are to make Treaties; and they are to try<sup>all</sup> impeachments. In allowing them thus to make the Executive & Judiciary appointments, to be the Court of impeachments, and to make Treaties which are to be laws of the land, the ["Executive" stricken out]. Legislative, Executive & Judiciary powers are all blended in ["the same" stricken out] ["one branch" written upon "body of"] of the Government. The power of making Treaties involves the case of subsidies, and here as an additional evil, foreign influence is to be dreaded— According to the plan as it now stands, the President will not be the man of the people as he ought to be, but the Minion of the Senate. He cannot even appoint a tide-waiter without the Senate— He had always thought the Senate too numerous a body for making appointments to office. The Senate, will moreover in all probability be in constant Session. They will have high salaries. And with all those powers, and the President in their interest, they will depress the other branch of the Legislature, and aggrandize themselves in proportion. Add to all this, that the Senate sitting in Conclave, can by holding up to their respective States various and improbable candidates, contrive so to scatter their votes, as to ["Draw" stricken out]<sup>bring</sup> the appointment of the President ultimately before themselves— Upon the whole, he thought the new mode of appointing the President, with some amendments, a valuable improvement; but he could never agree to purchase it at the price of the ensuing parts of the Report, nor befriend a system of Which the["se" written upon "y"] make a part—

M<sup>r</sup> Gov<sup>r</sup> Morris expressed his wonder at the observations of M<sup>r</sup> Wilson so far as they preferred the plan in the printed Report to the <sup>new</sup> modification of it before the House,



and entered into a comparative view of the two, with an eye to the nature of Mr Wilsons objections to the last. By th[“e” written upon “is”]<sup>first</sup>, the Senate he observed had a voice in appointing the President out of all the Citizens of the U. S.— by this they were limited to five candidates previously nominated to them, [“and” stricken out] with a probability of being barred altogether by the successful ballot of the Electors. Here surely was no increase of power. They are now to appoint Judges nominated to them by the President. Before they had the appointment without any agency whatever of the President. Here again was surely no additional power. If they are to make Treaties as the plan now stands, the power was the same in the printed plan— If they are to try impeachments, the Judges must have been triable by them before. Wherein then lay the dangerous tendency of the innovations to establish an aristocracy in the Senate? As to the appointment of officers, the weight of sentiment in the House, was opposed to the exercise of it by the President alone; though it was not the case with himself— If the Senate would act as was suspected, in misleading the States into a fallacious disposition of their votes for a President, they would, if the appointment were withdrawn wholly from them, make such [“mis” stricken out] representations in their several States where they have influence, as would favor the object of their partiality.

replying to Mr. Morris: observed that

Mr Williamson. The aristocratic complexion proceeds from the change in the mode of appointing the President which makes him dependent on the Senate.

[“Mr Clymer observed that the parts of the Report ought to be regarded as distinct” stricken out], Mr Clymer said that

the aristocratic part to which he could never accede was that in the printed plan, which gave the Senate the power of appointing to Offices.

Mr Hamilton said that he had been restrained from entering into the discussions by his dislike of the Scheme in General; but as he meant to support the plan to be recommended, as better than nothing, he wished in this place to offer a few remarks. He liked the new modification, on the whole, better than that in the printed Report. In this the President was a Monster elected for seven years, and ineligible afterwards; having great powers, in appointments to office, & continually tempted by this constitutional disqualification to abuse them in order to subvert the Government— Although he should be made re-eligible, Still if appointed by the Legislature, he would be tempted to make use of corrupt influence to be continued in office— It seemed peculiarly desirable therefore that Some other mode of election should be devised. Considering the different views of different States, & the different districts Northern Middle & Southern, he concurred with those who thought that the votes would not be concentrated, and that the appointment would consequently <sup>in the present mode</sup> devolve on the Senate. The nomination to offices will give great <sup>weight</sup> to the President— Here then is a mutual connection & influence, that will perpetuate the President, and aggrandize both him & the Senate. What is to be <sup>the</sup> remedy? He saw none better than to let the highest number of ballots, [“tho” stricken out] whether a majority or not, appoint the President. What was the objection to this? Merely that too small a number might appoint, But as the plan stands, the Senate ma[“y” written upon “ke”] take the candidate having the smallest number of votes, and make him President.

Mr Spaight & Mr Williamson moved to insert "seven" instead of "four" years for the term of the President—<sup>3</sup>[An (tho', it wd. seem from the vote not in the opinion of all.) ineligibility wd have followed ["of many" stricken out] <sub>^</sub> this prolongation of the term]

On this motion

N. H. ay. Mas. no. C<sup>t</sup> no— N. J. no— P<sup>a</sup> no. Del— no. M<sup>d</sup> no. V<sup>a</sup> ay. N. C— ay. S. C. no. Geo— no.

Mr Spaight & Mr Williamson, then moved to insert "six" instead of "<sup>four</sup>["seven" stricken out]". On which motion

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no, N. C— ay. S. C. ay— Geo. no

On the [<sup>"four"</sup>"term" stricken out] <sub>^</sub> all the States were ay, except N. Carolina, no.

On the question [<sup>["5" stricken out] (Clause 4. in the Report)</sup>"on the <sub>^</sub> clause" stricken out] for Appoint-  
ing President by electors—down to the words,—"entitled [<sup>["(clause 4<sup>th</sup>.)" stricken out]</sup>'to' stricken out] in the Legislature" inclusive. "See

N. H— ay— Mas: ay. N. J. ay— P<sup>a</sup> ay. Del— ay. M<sup>d</sup> ay, V<sup>a</sup> <sup>Cont: ay</sup> ay. N. C. no— S— C— no— Geo— ay. <sub>^</sub> <sup>["+" stricken out]</sup>

It was moved that the Electors meet at the seat of the Genl. Govt, which passed in the Negative. N. C only being ay.

It was moved to insert

["On Several motions" stricken out] the words "under <sub>^</sub> in ([<sup>4<sup>th</sup></sup>"6" stricken out]) clause of the Report the seal of the State" after the word "transmit" which was disagreed to; as was another motion to insert the words "and who shall have given their votes" after the word "appointed" as added yesterday on motion of Mr Dickinson. <sub>^</sub> <sup>in the ["7" stricken out] 4<sup>th</sup> Clause of the Report</sup>

On several motions. the words "in presence of the Senate and House of Representatives" were inserted after the word "Counted" and the word "immediately" ["before" written upon "after"] the word "choose"; and the words "of the Electors" after the word["s" effaced] "votes".

\* Transfer hither what is brackets

† [ " (in printed Journal—So. C. ay—" stricken out]

M<sup>r</sup> Spaight said if the election by Electors is to be crammed down, he would prefer their meeting altogether and deciding finally without any reference to the Senate and moved "That the Electors meet at the seat of the General Government—"

M<sup>r</sup> Williamson 2<sup>ded</sup> the motion, on which all the States were in the negative except N: Carolina.

On motion the words "But the election shall be on the same day throughout the U— S—" were added after the words  
N. H., ay. Mas. no. Ct. ay. N. J. no. Pa. ay. Del. no.  
 "transmitting their votes."

Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. ay.

On a question on the ["clause" stricken out] sentence in clause (4). "if such number be a majority of ["electors" stricken out] that of the electors" appointed."

N— H— ay— Mas. ay. C<sup>t</sup> ay. N. J. ay— P<sup>a</sup> no— Del— ay. M<sup>d</sup> ay. V<sup>a</sup> no— N. C. no. S— C. ay Geo. ay.

On a question on the clause referring the eventual appointment of the President to the Senate

N— H— ay. Mas. ay. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del— ay— V<sup>a</sup> ay.  
 N. C. no ["N. C." stricken out] <sup>Here</sup> the call ceased.

M<sup>r</sup> Madison made a motion requiring  $\frac{2}{3}$  at least of the Senate to be present at the choice of the President— M<sup>r</sup> Pinkney 2<sup>ded</sup> the motion

M<sup>r</sup> Gorham thought it a wrong principle to require more than a majority in any case. In the present case it might prevent for a long time any choice of a President On the question moved by M<sup>r</sup> M— & M<sup>r</sup> P.

N. H. ay: Mas. abs<sup>t</sup> C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N— C. ay. S— C. ay. Geo. ay

M<sup>r</sup> Williamson suggested as better than an eventual choice by the Senate, that this choice should be made by the Legislature, voting by States and not per capita.

M<sup>r</sup> Sherman suggested the House of Rep<sup>s</sup> as preferable to "the Legislature", and moved, accordingly,

To strike out the words "The Senate shall immediately choose &c." and insert "The House of Representatives shall immediately choose by ballot one of them for President, the members from each State having one vote."

Col: Mason liked the latter mode best as lessening the aristocratic influence of the Senate.

On the motion of M<sup>r</sup> Sherman

N. H. ay. Mas. ay- C<sup>t</sup> ay- N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N- C. ay- S- C. ay. Geo. ay,

M<sup>r</sup> Gov<sup>r</sup> Morris suggested the idea of providing that in all cases, the President in office, should not be one of the <sup>five</sup> Candidates; ["unless" stricken out] but be only <sup>re</sup>-eligible in case a majority of the electors should vote for him- [This was another expedient for rendering the President independent of the Legislative body for his continuance in office]

M<sup>r</sup> Madison remarked that as a majority of members w<sup>d</sup> make a quorum in the H- of Rep<sup>r</sup> it would follow from the amendment of M<sup>r</sup> Sherman giving the election to a majority of States, that the President might be elected by two States only, Virg<sup>a</sup> & Pen<sup>a</sup> which have 18 members, if these <sup>States</sup> alone should be present

On a motion that the eventual election of Presid<sup>t</sup> in case of an equality of the votes of the electors be referred to the House of Rep<sup>s</sup>

N. H. ay. Mas. ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N- C. ay. S. C. <sup>moved</sup> ay- Geo- ay,

M<sup>r</sup> King <sup>moved</sup> to add to the amendment of M<sup>r</sup> Sherman "But a quorum for this purpose shall consist of a member or members from two thirds of the States," and also of a majority of the whole <sup>number of the House of Representatives.</sup>

Col Mason liked it as obviating the remark of M<sup>r</sup> Madison—<sup>as far as "States" inclusive</sup> The motion was ag<sup>d</sup> to

[“M<sup>r</sup> King moved further to add to the last amendment”  
<sup>On the residue to art.</sup> stricken out]—“and also of a majority of the whole number  
 of the House of Rep<sup>s</sup> it passed in the Negative

N. H. no. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no.  
 V<sup>a</sup> ay— N— C— ay— S— C— no— Geo— no.

The Report [“as amended stands” stricken out] relating  
 to the appointment of the [“President” stricken out]<sup>Executive</sup> stands  
 as amended, as follows,

“He shall hold his office during the term of four years,  
 and together with the vice-President, chosen for the same  
 term, be elected in the [“manner” stricken out] following  
 manner.

Each State shall appoint in such manner as its Legislature  
 may direct, a number of electors equal to the whole number  
 of Senators and members of the House of Representatives, to  
 which the State may be entitled in the Legislature:

But no person shall be appointed an Elector who is a mem-  
 ber of the Legislature of the U. S. or who holds any office of  
 profit or trust under the U. S.

The Electors shall meet in their respective States and  
 vote by ballot for two persons, of whom one at least shall  
 not be an[“d” stricken out] inhabitant of the same State  
 with themselves; and they shall make a list of all the per-  
 sons voted for, and of the number of votes for each; which  
 list they shall sign and certify, and transmit sealed to the  
 Seat of the General Government, directed to the President of  
 the Senate.

The President of the Senate shall in the presence of the  
 Senate and House of Representatives open all the certifi-  
 cates & the votes shall then be counted.



The person having the greatest number of votes shall be the President (if such number be a majority of the whole number of electors appointed) and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President, the Representation from each State having one vote— But if no person have a majority, then from the five highest on the list, the House of Representatives shall in like manner choose by ballot the President— In the choice of a President by the House of Representatives, a Quorum shall consist of a member or members from two thirds of the States, [\* and the concurrence of a majority of all the States shall be necessary to such choice—]—And in every case after the choice of the President, the person having the greatest number of votes of the Electors shall be the vice-president: But, if there should remain two or more who have equal votes, the Senate shall choose from them the vice-President.

The Legislature may determine the time of choosing the Electors, and of their giving their votes; and the manner of certifying and transmitting their votes—But the election shall be on the same day throughout the U— States.”

Adjourned

Friday Sep<sup>r</sup> 7. 1787. In Convention

The mode of constituting the Executive being resumed,  
Mr-Randolph moved <sup>of the report made yesterday</sup> to insert in the first Section .

“The Legislature may declare by law what officer of the U. S— shall act as President in case of the death, resignation,

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\*. Note. tl is clause was not inserted on this day, but on the 7<sup>th</sup> Sept. See Friday the 7<sup>th</sup>

or disability of the President and Vice-President; and such officer shall act accordingly until the time of electing a President shall arrive."

M<sup>r</sup> Madison observed that this, as worded, would prevent a supply of the vacancy by an intermediate election of the President, and moved to substitute—"until such disability be removed, or a President shall be elected—" \* M<sup>r</sup> Govern<sup>r</sup> Morris 2<sup>d</sup>ed the motion, which was agreed to.

to the provision with some, that according to the process established for chusing the  
It seemed to be an objection <sup>^</sup> ["with some that according to the process of election established for the President" stricken out] Executive, there would <sup>be</sup> difficulty in effecting it at other than the fixed periods; with others, that the Legislature was restrained in the temporary appointment to "officers" of the U. S.: They wished it to be at liberty to appoint others <sup>than such.</sup>

On the motion of M<sup>r</sup> Randolph as amended, it passed in the <sup>mative</sup>affir<sup>^</sup>

N. H. divided., Mas. no. C<sup>t</sup> no. N. J. ay. P<sup>a</sup> ay. Del- no. M<sup>d</sup> ay. V<sup>a</sup> ay. N- C- no- S. C. ay- Geo. ay

M<sup>r</sup> Gerry moved "that in the election of President by the House of Representatives, no State shall vote by less than three members, and <sup>where</sup> that number may not be allotted to a State, it shall be ["up from" stricken out] <sup>made up by</sup> its Senators; and a concurrence of a majority of all the States shall be necessary to make such choice". Without some such provision five individuals might possibly be competent to an election, these being a majority of two thirds of the existing number of States; and two thirds being a quorum for this business.

[ "M<sup>r</sup> Madison 2<sup>d</sup>ed the motion adding that otherwise three members might possibly elect them being from their several States and a quorum being made up by the representatives of two large States" stricken out].

M<sup>r</sup> Madison 2<sup>d</sup>ed the motion

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\* In the printed Journal this amendment is put into the original Motion.

M<sup>r</sup> Read observed that the States having but one member ["only" stricken out] only in the House of Rep<sup>s</sup> would be in danger of having no vote at all in the election: the sickness or absence either of the Representative or one of the Senators would have that <sup>effect</sup>

M<sup>r</sup> Madison replied that, if one member of the House of Representatives should be left capable of voting for the State, the states having one Representative only would still be subject to that danger. He thought it an evil that so small a number ["as the motion required qualified" stricken out] <sup>at any rate should be authorized</sup>, to elect. Corruption would be greatly facilitated by it. The mode <sup>itself</sup> was liable to this further weighty objection that the representatives of a Minority of the people, might reverse the ["vote" stricken out] <sup>choice</sup> of a majority of the States and of the people— He wished some cure for this inconvenience might yet be provided—

M<sup>r</sup> Gerry withdrew the first part of his motion; and on the, — . . .

Question on the 2<sup>d</sup> part viz, "and a concurrence of a majority of all the States shall be necessary to make such choice" to follow the words "a member or members from two thirds of the States"—It was agreed to nem: con:

The <sup>section 2.</sup> ["clause (2)" stricken out] (see Sep<sup>r</sup> 4)

["On motion" stricken out] requiring that the President should be a natural-born Citizen, &c & have been resident for fourteen years, & be thirty five years of age, was agreed to nem: con:

<sup>Section 3.</sup> ["Clause (6)" stricken out] (see Sep<sup>r</sup> 4). "The vice President shall be ex officio President of the Senate"

M<sup>r</sup> Gerry opposed this regulation. We might as well put the President himself at the head of the Legislature. The close intimacy that must subsist between the President

& vice-president makes it absolutely improper. He was ag<sup>st</sup> having any vice President.

M<sup>r</sup> Gov<sup>r</sup> Morris. The vice president then will be the first heir apparent that ever loved his father— If there should <sup>be no</sup> vice president, the President of the Senate would be temporary successor, which would amount to the same thing.

M<sup>r</sup> Sherman saw no danger in the case. If the vice-President were not to be President of the Senate, he would be without employment, and some member <sup>by being made President</sup> must be deprived of his vote, [“when an” stricken out] <sup>unless when an</sup> equal division of votes might happen in the Senate, which would be but seldom.

M<sup>r</sup> Randolph concurred in the opposition to the clause.

M<sup>r</sup> Williamson, observed that such an officer as vice-President was not wanted. He was introduced only for the sake of a valuable mode of election which required [“the” stricken out] two to be chosen at the same time.

Col: Mason, thought the office of vice-President an encroachment on the rights of the Senate; and that it mixed too much the Legislature & Executive, which as well as the Judiciary <sup>departments,</sup> ought to be kept as separate as possible. He took occasion to express his dislike of any reference whatever of the power to <sup>ments</sup> make appoint- <sup>of six members</sup> [“officers” stricken out] to either branch of the Legislature. On the other hand he was averse to vest so dangerous a power in the President alone. As a method for avoiding both, he suggested that a privy Council <sup>of six members</sup> to the president should be established; to be chosen for six years by the Senate, [“out” stricken out] two out of the Eastern two out of the middle, and two out of the Southern quarters of the Union, & to go out in rotation two every second year;

the concurrence of the Senate to be required only in the appointment of Ambassadors, and in making treaties, which are more of a legislative <sup>nature</sup>. This would prevent the constant sitting of the Senate which he thought dangerous, as well as keep the departments separate & distinct. It would also save the expense of constant sessions of the Senate. He had he said ["also" stricken out] <sup>always</sup> considered the Senate as too unwieldy & expensive for appointing officers, especially the smallest, such as tide waiters &c. He had not reduced his idea to writing, but it could be easily done if it should be found acceptable.

On the question shall the vice President be ex officio President of the Senate?

N- H. ay- Mas. ay- C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. ay- Mas- no. V<sup>a</sup> ay- N- C- abs<sup>t</sup> S. C. ay- Geo. ay.

The other parts of the same [<sup>Section</sup> "paragraph" stricken out] (3) were then agreed to.

The [<sup>Section 4.</sup> "(7) clause" stricken out]—to wit, "The President by & with the advice and consent of the Senate shall have power to make Treaties &c"

Mr Wilson moved to add, after the word "Senate" the words, "and House of Representatives". As treaties he said are to have the operation of laws, they ought to have the sanction of laws also. The circumstance of secrecy in the business of treaties formed the only objection; but this he thought, so far as it was inconsistent with obtaining the Legislative sanction, was outweighed by the necessity of the latter.

Mr Sherman thought the only question that could be made was whether the power could be safely trusted to the Senate. He thought it could; and that the necessity of secrecy in the

case of treaties forbade a reference of them to the whole Legislature.

M<sup>r</sup> Fitzsimmons 2<sup>d</sup> the motion of M<sup>r</sup> Wilson, & on the question

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ["no written upon "ay"] V<sup>a</sup> no. N. C. no. S. C. no. Geo. no.

The first sentence ["of the clause (4) (7)" stricken out] as to making treaties, was then Agreed to: nem: con: "On" stricken out—"He shall nominate &c Appoint ambassadors &c."

M<sup>r</sup> Wilson objected to the mode of appointing, as blending ["the" stricken out] a branch of the Legislature with the Executive. Good laws are of no effect with-<sup>out</sup> a good Executive; and there can be no good Executive without a responsible appointment of officers to execute. ["the laws" stricken out]. Responsibility is in a manner destroyed by such an agency of the Senate— He would prefer the Council proposed by ["Council" stricken out]<sup>Col: Mason,</sup> provided its advice should not be made obligatory on the President

M<sup>r</sup> Pinkney was against joining the Senate in these appointments, except in the instances of Ambassadors who["n" stricken out] he thought ought not to be appointed by the President

M<sup>r</sup> Gov<sup>r</sup> Morris said that as the President was to nominate, there would be responsibility, and as the Senate was to concur, there would be security. As Congress now make appointments there is no responsibility.

M<sup>r</sup> Gerry— The idea of responsibility in the nomination to offices is chimerical— The President can not know all characters, and can therefore always plead ignorance.

M<sup>r</sup> King. As the idea of a Council ["has" stricken out] proposed by Col. Mason has been supported by M<sup>r</sup> Wilson,



he would remark that most of the inconveniencies charged on the Senate are incident to a ["privy" stricken out] Council of Advice. He differed from those who thought the Senate would sit constantly. He did not suppose it was meant that all the minute officers ["would was" stricken out] <sup>were</sup> to be appointed by the Senate, or any other original source, ["of with" stricken out] but by the higher officers of the departments to which they belong. He was of opinion also that the people would be alarmed at an unnecessary creation of New Corps which must increase the expense as well as influence of the Government.

On the question on these words in the clause viz—"He shall nominate & by & with the advice and consent of the Senate, appoint <sup>(and Consuls)</sup> ambassadors, and other public ministers ["&c" stricken out] Judges of the supreme Court" Agreed to: nem: con: the insertion of "(and consuls" having first taken place.

On the question on the following words "And all other officers of U. S—"

N. H— ay— Mas ay. C<sup>t</sup> ay. N— J— ay. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N— C. ay. S— C. no. Geo. ay.

[<sup>"to postpone the clause (7) in order to take up the following proposition viz" stricken out]</sup>

["Col: Mason moved 'that it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State for the President of the U. S. to consist of six members, two of which from the Eastern, two from the Middle, and two from the Southern States, with a rotation and duration of Office similar to those of the Senate; such Council to be appointed by the Legislature or by the Senate' which motion was rejected." stricken out]

On motion of M<sup>r</sup> Spaight—"that the President shall have

power to fill up all vacancies that may happen during the recess of the Senate by granting Commissions which shall expire at the end of the next Session of the Senate" It was agreed to nem: con:

[<sup>Section 4.</sup>"Clause (7)" stricken out.] "The President by and with the advice and consent of the Senate shall have power to make Treaties"—["being under consideration," stricken out]—"But no treaty shall be made without the consent of two thirds of the members present"—this last being before the House.

M<sup>r</sup> Wilson thought it objectionable to require the concurrence of  $\frac{2}{3}$  which puts it in the power of a minority to controul the will of ["a" written upon "the"] majority.

M<sup>r</sup> King concurred in the objection; remarking that as the Executive was here joined in the business, there was a check which did not exist in Congress where The concurrence of  $\frac{2}{3}$  was required.

M<sup>r</sup> Madison moved to insert after the word "treaty" the words "except treaties of peace" allowing these to be made ["with the" stricken out] with less difficulty than other treaties—It was agreed to nem: con:

M<sup>r</sup> Madison then moved to authorize <sup>a concurrence of</sup> two thirds of the Senate to make treaties of peace, without the concurrence of the President".—The President he said would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede ["the" stricken out]<sup>a</sup> treaty of peace. M<sup>r</sup> Butler <sup>ded</sup> the motion

M<sup>r</sup> Gorham thought the precaution unnecessary as the means of carrying on the war would not be in the hands of the President, but of the Legislature.

M<sup>r</sup> Gov<sup>r</sup> <sup>Morris</sup> thought the power of the President in this case

harmless; and that no peace ought to be made without the concurrence of the President, who was the general Guardian of the National interests.

Mr Butler was strenuous for the motion, as a necessary security against ambitious & corrupt Presidents. He mentioned the <sup>late</sup> perfidious policy of the Statholder in Holland; and the artifices of the Duke of Marlbro' to prolong the war of which he had the management.

Mr Gerry was of opinion that in <sup>of peace</sup> treaties a greater rather than less proportion of votes was necessary, than in other treaties. In Treaties of peace the dearest interests will be at stake, as the fisheries, territories &c. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed, than on any other occasions.

Mr Williamson <sup>thought</sup> that Treaties of peace should be guarded at least by requiring the <sup>same</sup> concurrence ["of Treaties" stricken out] as in other Treaties.

On the motion of Mr Madison & Mr Butler

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del- no. M<sup>d</sup> ay- V<sup>a</sup> no- N. C. no. S. C. ay. Geo. ay.

On the part of the clause concerning treaties amended ["with" stricken out] <sup>by</sup> the exception as to Treaties of peace.

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N- C. ay. S- C. ay- Geo. no.

["clause (8)" stricken out] "and may require the opinion in writing of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices." being before the House

Col. Mason<sup>\*</sup> said that we were about to try an experiment on which the most despotic Governments had never ventured- The Grand Signor himself had his Divan. He moved to

\* In the printed Journal- Mr. Madison is erroneously substituted for Col. Mason-

postpone the consideration of the clause [“(8)” stricken out] in order to take up the following

“That it be an instruction to the Committee of the States to prepare a clause or clauses for establishing an Executive Council, as a Council of State for the President of the U. States, to consist of six members, two of which from the Eastern, two from the middle, [“S” effaced] and two from the Southern States, with a Rotation and duration of office similar to those of the Senate; such Council to be appointed by the Legislature or by the Senate”.

Doctor Franklin 2<sup>d</sup><sup>ed</sup> the motion. We seemed he said too much to fear cabals in appointments<sup>by a number</sup>, and to have too much confidence in those of single persons. Experience shewed that caprice, the intrigues of favorites & mistresses, &c were nevertheless the means most prevalent in monarchies. among instances of abuse in such [“G” effaced] modes of appointment, he mentioned the many bad Governors appointed in G. B. [“for” written upon “over”] the Colonies. He thought a Council would not only be a check on a bad President but be a relief to a good one.

M<sup>r</sup> Gov<sup>r</sup> Morris. The question of a Council<sup>l</sup> was considered in the Committee, where it was judged that the Presid<sup>t</sup> by persuading his Council— to concur in his wrong measures, would acquire their protection for them—

M<sup>r</sup> Wilson approved of a Council, in preference to making the Senate a party to appointm<sup>ts</sup>

M<sup>r</sup> Dickinson was for a Council. It w<sup>d</sup> be a singular thing if the measures of the Executive were not to undergo some<sup>previous</sup> discussion before the President

M<sup>r</sup> Madison was in favor of the instruction<sup>to the Committee</sup> proposed by Col. Mason.

The motion of M<sup>r</sup>. Mason was negatived. Mary<sup>d</sup>. ay. S. C. ay. Geo. ay—N. H. no. Mas. no. Ct. no N. J. no Pa. no Del. no. Va. no. N<sup>c</sup> no.

On the question, "authorizing the President to call for the opinions of the Heads of Departments, in writing:" it

<sup>[“no” stricken out affirmative, N. H. only being no.\*]</sup>  
 [“N. H. ay. & all the rest ay” stricken out.] The clause was then unanimously agreed to.

M<sup>r</sup> Williamson & M<sup>r</sup> Spaight moved “that no Treaty of Peace affecting Territorial rights sh<sup>d</sup> be made without the <sup>members of the Senate present.</sup> concurrence of two thirds of the [“Senate” stricken out].

M<sup>r</sup> King— It will be necessary to look out for securities for some other rights, if this principle be established; he moved to extend the motion to —“all present rights of the U. States”.

Adjourned

Saturday September 8<sup>th</sup> In convention

The last Report of Committee of Eleven <sup>(see Sept. 4)</sup> was resumed.

M<sup>r</sup> King moved to strike out the “exception of Treaties of peace” from the general clause requiring two thirds of the Senate for making Treaties

M<sup>r</sup> Wilson wished the requisition of two thirds to be struck out altogether. If the majority cannot be trusted, it was a proof, as observed by M<sup>r</sup> Ghorum, that we were not fit for one Society.

A reconsideration of the whole clause was agreed to.

M<sup>r</sup> Gov<sup>r</sup> Morris was ag<sup>st</sup> striking out the “exception of Treaties of peace” If two thirds of the Senate should be required for peace, the Legislature will be unwilling to make war for that reason, on account of the Fisheries or the Mississippi, the two great objects of the Union. Besides, if a

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\* Not so stated in the Printed Journal; but conformable to the result afterwards appearing. passed in the [“abgative, it being considered” stricken out]

Majority ["of" written upon "be"] the Senate be for peace, ["they" stricken out] and are not allowed to make it, they will be apt to effect their purpose in the more disagreeable mode, of negating the supplies for the war.

M<sup>r</sup> Williamson remarked that 'Treaties are to be made in the branch of the ["Gen'l" stricken out] Gov<sup>t</sup> where there may be a majority of the States without a majority of the people, Eight men may be a majority of a quorum, & should not have the power to ["make" stricken out] decide the conditions of peace. There would be no danger, that the exposed States, as S. Carolina or Georgia, would urge an improper war for the Western Territory.

M<sup>r</sup> Wilson If two thirds are necessary to make peace, the minority may perpetuate war, against the sense of the majority.

M<sup>r</sup> Gerry enlarged on the danger of putting the essential rights of the Union in the hands of so small a number as a majority of the Senate, representing perhaps, not one fifth of the ["peop" stricken out] people. The Senate will be corrupted by foreign influence.

M<sup>r</sup> Sherman was ag<sup>t</sup> leaving the rights, ["gained" stricken out] <sup>established</sup> by the Treaty of Peace, to the Senate, & moved to annex a "proviso that no such rights sh<sup>d</sup> be ceded without the sanction of the Legislature.

M<sup>r</sup> Gov<sup>r</sup> Morris seconded the ideas of M<sup>r</sup> Sherman.

M<sup>r</sup> Madison observed that it had been too easy in the present Congress to make 'Treaties altho' nine States were required for the purpose.

On the question for striking "except Treaties of peace"

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> no-  
V<sup>a</sup> ay. N. C- ay. S. C. ay. Geo- ay



Mr Wilson & Mr Dayton move to strike out the clause requiring two thirds of the Senate for making Treaties.—on which,

N. H no— Mas— no— C<sup>t</sup> div<sup>d</sup> N— J. no. P<sup>a</sup> no Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N. C. no S. C. no. Geo. no.

Mr Rutledge & Mr Gerry moved that “no Treaty be made without the consent of  $\frac{2}{3}$  of all the members of the Senate”—according to the example in the present Cong<sup>s</sup>

Mr Ghorum. There is a difference in the case, as the President's consent will also be necessary in the new Gov<sup>t</sup>

On the question

N— H. no— Mass no— (Mr Gerry ay) C<sup>t</sup> no. N. J— no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

Mr Sherman mov<sup>d</sup> that “no Treaty be made without a Majority of the whole number <sup>of the senate</sup> — Mr Gerry seconded him.

Mr Williamson. This will be less security than  $\frac{2}{3}$  as now required.

Mr Sherman— It will be less embarrassing.

On the question, it passed in the negative

N. H no. Mas. ay. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> no. V<sup>a</sup> no. N— C— no. S. C. ay. Geo. ay.

Mr Madison mov<sup>d</sup> that a Quorum of the Senate consist of  $\frac{2}{3}$  of all the members.

Mr Gov<sup>r</sup> Morris—This will put it in the power of one man to break up <sup>a</sup> Quorum.

Mr Madison, This may happen to any Quorum.

On the Question it passed in the negative

N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no— Del. no— M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

Mr Williamson & Mr Gerry mov<sup>d</sup> “that no Treaty sh<sup>d</sup> be

made with<sup>1</sup> previous notice to the members, & a reasonable time for their attending."

On the Question

All the States no, except N- C- S. C. & Geo. ay.

On a question on clause ["4<sup>th</sup>" stricken out] of the Report of the Com<sup>e</sup> of Eleven relating to Treaties by  $\frac{2}{3}$  of the Senate. All the States <sup>were</sup> ay—except P<sup>a</sup> N. J. & Geo. no.

M<sup>r</sup> Gerry mov<sup>d</sup> that no officer shall be app<sup>d</sup> but to offices created by the Constitution or by law."—This was rejected as unnecessary by six no's and five ays;

The Ayes. Mas. C<sup>t</sup> N. J. N. C. Geo. — Noes— N. H. P<sup>a</sup> : Del. Md V<sup>a</sup> S. C.

The clause referring to the Senate, the trial of impeachments ag<sup>st</sup> the President, for Treason & bribery, was taken up.

Col. Mason. Why is the provision restrained to Treason & bribery only? Treason as ["to be" stricken out] defined in the Constitution will not reach many great and dangerous offences. Hastings is not guilty of Treason. Attempts to subvert the Constitution may not be Treason as above defined—As bills of attainder which have saved the British Constitution are forbidden, it is the more necessary to extend: the power of impeachments. He mov<sup>d</sup> to add after "bribery" "or maladministration". M<sup>r</sup> Gerry seconded him—

M<sup>r</sup> Madison So vague a term will be equivalent to a tenure during pleasure of the Senate.

M<sup>r</sup> Gov<sup>r</sup> Morris, it will not be put in force & can do no harm— An election of every four years will prevent maladministration.

Col. Mason withdrew "maladministration" & substitutes "other high crimes & misdemeanors" ag<sup>st</sup>, the State"

On the question thus altered

N. H— ay. Mas. ay— C<sup>t</sup> ay. <sup>N. J. no</sup> P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. ay. <sup>\*</sup> Geo. ay.

\*In the printed Journal. S. Carolina—no

Mr Madison, objected to a trial of the President by the ["Senate" stricken out] Senate, especially as he was to be impeached by the other branch of the Legislature, and for any ["misdemeanor" stricken out] act which might be called a misdemeanor. The President under these circumstances was made improperly dependent. He would prefer the supreme Court for the trial of impeachments, or rather a tribunal of which that should form a part.

Mr Gov<sup>r</sup> Morris thought no other tribunal than the Senate could be trusted. The supreme Court were too few in number and might be warped or corrupted. He was ag<sup>st</sup> a dependence of the Executive on the Legislature, considering the Legislative tyranny the great danger to be apprehended; but ["he did conceive" stricken out] there could be no danger that the Senate would say <sup>untruly</sup> on their oaths that the President was guilty of crimes or facts, especially as in four years he can be turned out. —

Mr Pinkney disapproved of making the Senate the Court of Impeachments, as rendering the President too dependent on the Legislature. If he opposes a favorite law, the two Houses will combine ag<sup>st</sup> him, and under the influence of heat and faction throw him out of office.

Mr Williamson thought there was more danger of too much lenity than of too much rigour towards the President, considering the number of cases in which the Senate ["was" <sup>["would" stricken out]</sup> to act in" stricken out] was associated with the President—

Mr Sherman regarded the Supreme Court as improper to try the President, because the Judges would be appointed by him.

On ["the" stricken out] motion by Mr Madison to strike out the words—"by the Senate" after the word "Conviction"

N- H. no. Mas- no. C<sup>l</sup> no. N. J. no- P<sup>a</sup> ay- Del- no. M<sup>d</sup> no. V<sup>a</sup> ay- N. C. no. S- C- no. Geo. no.

In the amendment of Col: Mason just agreed to, the word "State" after the words misdemeanors against" was struck out, and the words "United States" inserted, <sup>unanimously</sup> in order to remove ambiguity-

On the question to agree to clause [<sup>as amended</sup> "(9) as amended" stricken out],

N. H. ay. Mas. ay. <sup>Cont ay</sup> N. J. ay. <sup>Del. ay</sup> P<sup>a</sup> no. M<sup>d</sup> ay- V<sup>a</sup> ay. N- C. ay. S. C. ay. Geo. ay

On motion "The vice-President and other Civil <sup>officers</sup> of the U. S. shall be removed from office on impeachment and conviction as aforesaid" was added to the clause ["(9)" stricken out] on the subject of impeachments.

The clause ["(3)" stricken out] of the report made on the 5<sup>th</sup> Sep<sup>r</sup> <sup>& postponed</sup> was taken up, to wit—"All bills for raising revenue shall originate in the House of Representatives; and shall be subject to alterations and amendments by the Senate. No money shall be drawn from the Treasury but in consequence of appropriations made by law."

It was moved to strike out the words "and shall be subject to alterations and amendments by the Senate" and insert the words used in the Constitution of Massachussetts on the same subject—"but the Senate may propose or concur with amendments as in other bills"—which was agreed too nem: con:

On the question On the first part of the clause—"All bills for raising revenue shall originate in the house of Representatives" \*

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\*This was a conciliatory vote, the effect of the compromise formerly alluded <sup>to</sup> <sub>^</sub>. See Note Wednesday Sep<sup>r</sup>. 5.

N. H. ay. Mas. ay. C<sup>t</sup> ay. N. J. ay P<sup>a</sup> ay. Del. no. M<sup>d</sup> no.  
V<sup>a</sup> ay. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gov<sup>r</sup> Morris moved to add to clause (3) of the report made on the Sep<sup>r</sup> 4. the words "and every member shall be on oath" which being agreed to, and a question taken on the clause <sup>so amended</sup> viz—"The Senate shall have power to try <sup>of the U. S.</sup> all impeachments: but no person shall be convicted without the concurrence of two thirds of the members present: and every member shall be on oath"

N. H. ay- Mas. ay. C<sup>t</sup> ay. N. J- ay. P<sup>a</sup> no- Del- ay- M<sup>d</sup> ay. V<sup>a</sup> no. N. C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Gerry repeated his motion above made on this day, in the form following "The Legislature shall have the sole right of establishing offices not herein provided for". which was again negatived: Mas. Cont. & Geo. only being ay.

M<sup>r</sup> McHenry observed that the President had not yet been any where authorized to convene the Senate, and moved to [<sup>amend</sup> "insert in" stricken out] Art X. sect. 2. by striking out the words "He may convene them [the Legislature] on extraordinary occasions" & insert "He may convene both or either of the Houses on extraordinary occasions"— This he added ["that this" stricken out] would also provide for the case of the Senate being in Session at the time of convening the Legislature.

M<sup>r</sup> Wilson said he should vote ag<sup>t</sup> the motion because it implied that the senate might be in Session, when the Legislature was not, which he thought improper.

On the question

N. H. ay- Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del- ay. M<sup>d</sup> ay.  
V<sup>a</sup> no- N. C. ay. S. C. no. Geo. ay.

A Committee was then appointed <sup>by Ballot</sup> to revise the stile of and

arrange the articles which had been agreed to by the House. The Committee consisted of M<sup>r</sup> Johnson, M<sup>r</sup> Hamilton, M<sup>r</sup> Gov<sup>r</sup> Morris, M<sup>r</sup> Madison and M<sup>r</sup> King.

M<sup>r</sup> Williamson moved that previous to this work of the Committee the clause ["fixing the" stricken out] relating to the number of the House of Representatives sh<sup>d</sup> be reconsidered for the purpose of increasing the number.

M<sup>r</sup> Madison ["M<sup>r</sup> Sherman" stricken out] 2<sup>d</sup><sup>d</sup> the Motion

M<sup>r</sup> Sherman opposed it— he thought the provision on that subject amply sufficient.

Col: Hamilton expressed himself with great earnestness and anxiety in favor of the motion. He avowed himself a friend to a vigorous Government, but would declare at the same time, that <sup>he held it essential that</sup> the popular branch of it should be on a broad foundation. He was seriously of opinion that the House of Representatives was on so narrow a scale ["that" stricken out] as to be really dangerous, and to warrant a jealousy in the people for their liberties. He remarked that the connection between the President & Senate would tend to perpetuate him, by corrupt influence. It was the more necessary on this account that a numerous representation in the ["first" stricken out] other branch of the Legislature should be established.

On the motion of M<sup>r</sup> Williamson to reconsider, it was negatived.

\* N— H— no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay— N. C. ay. S. C. no. Geo. no.

Adj<sup>d</sup>

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<sup>& vote are</sup>  
\* This motion ["is" stricken out] entered on the Printed journal of the ensuing morning.



Monday Sep<sup>r</sup> 10. 1787. In Convention

M<sup>r</sup> Gerry moved to reconsider art XIX. viz, "On the application of the Legislatures of two thirds of the States in the Union, for an amendment of this Constitution, the Legislature of the U. S shall call a Convention for that purpose." <sup>[see Aug." 6.]</sup> ["which", illegible words stricken out]

This Constitution he said is to be paramount to the State Constitutions. It follows, hence, from this article that two thirds of the States may obtain a Convention, a majority of which can bind the Union to innovations that may subvert the State-Constitutions altogether. He asked whether this was a situation proper to be run into—

M<sup>r</sup> Hamilton 2<sup>d</sup> <sup>ed</sup> ["M<sup>r</sup> Gerry's motion" stricken out] the motion, but he said with a different view from M<sup>r</sup> Gerry—He did not object to the consequences stated by M<sup>r</sup> Gerry—There was no greater evil in subjecting the people of the U. S. to the major voice than the people of a particular State—It had been wished by many and was much to have been desired that an easier mode for introducing amendments had been provided by the articles of Confederation. It was equally desirable now that an easy mode should be established for supplying defects ["will" stricken out] which will probably appear in the new System. The mode proposed was not adequate. The State Legislatures will not apply for alterations but with a view to increase their own powers—The National Legislature will be the first to perceive and will be most sensible to the necessity of amendments, and ought also to be empowered, whenever two thirds of each branch should concur to call a Convention— There could be no danger in giving this power, as the people [illegible words stricken out] would finally decide in the case.

M<sup>r</sup> Madison remarked on the vagueness of the ["express" stricken out]<sup>terms</sup>, "call a Convention for the purpose." as sufficient reason for reconsidering the article. How was a Convention to be formed? by what rule decide? what the force of its acts?

On the motion of M<sup>r</sup> Gerry to reconsider

N. H. div<sup>d</sup> Mas. ay—C<sup>t</sup> ay. N. J—no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N—C. ay. S. C. ay. Geo. ay.

M<sup>r</sup> Sherman moved to add to the article "or the Legislature may propose amendments to the several States for their approbation, but no amendments shall be binding until consented to by the several States"

M<sup>r</sup> Gerry 2<sup>d</sup> the motion

M<sup>r</sup> Wilson moved to insert "two thirds of" before the words "several States"—on which amendment to the motion of M<sup>r</sup> Sherman

N. H. ay. Mas. ["<sup>no</sup> ay" stricken out]. C<sup>t</sup> no. N. J. ["no" written upon "ay"] P<sup>a</sup> ay—Del—<sup>ay</sup> ["<sup>no</sup>" stricken out] ["ay" stricken out] M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Wilson then moved to insert "three fourths of" before "the several Sts" which was agreed to nem: con:

M<sup>r</sup> Madison moved to postpone the consideration of the amended proposition in order to take up the following,

"The Legislature of the U—S— whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as one or the other mode of ratification may be pro-

posed by the Legislature of the U. S.:" ["provid"<sup>‡</sup> stricken out]

M<sup>r</sup> Hamilton 2<sup>d</sup><sup>d</sup> the motion.

M<sup>r</sup> Rutledge said he never could agree to give a power by which the articles relating to slaves might be altered by the States not interested in that property and prejudiced against it. In ["consequence of"<sup>order to obviate</sup> stricken out] this objection, these words were added to the proposition: "provided<sup>‡</sup> that no amendments which may be made prior to the year 1808. shall in any manner affect the 4 & 5 sections of the VII article"—The postponement being agreed to,

On the question On the proposition of M<sup>r</sup> Madison & M<sup>r</sup> Hamilton as amended

N. H. div<sup>d</sup> Mas. ay. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay S. C. ay. Geo. ay.

M<sup>r</sup> Gerry moved<sup>from the latter of which "for the approbation of Congs." had been struck out.</sup> to reconsider art: XXI & XXII. He objected to proceeding to change the Government without the approbation of Congress ["It was"<sup>as being</sup> stricken out] improper and ["would give"<sup>giving</sup> stricken out] just umbrage to that body. He repeated his objections also to an annulment of the confederation with so little scruple or formality.

M<sup>r</sup> Hamilton concurred with M<sup>r</sup> Gerry as to the indecorum of not requiring the approbation of Congress. He considered this as a necessary ingredient in the transaction. He thought it wrong also to allow nine States as provided by art XXI. to institute a new Government on the ruins of the existing one. He w<sup>d</sup> propose as a better modification of the two articles (XXI & XXII) that the plan should be sent to Congress in order that the same if approved by them, may be communi-

\* The Printed Journal makes the succeeding proviso as to sections 4 & 5. of art: VII. moved by M<sup>r</sup> Rutledge, part of the proposition of M<sup>r</sup> Madison

cated to the State Legislatures, to the end that they may refer it to State Conventions; each Legislature declaring that if the Convention of the State should think the plan ought to take effect among nine ratifying States, the same sh<sup>d</sup> take effect accordingly.

Mr Gorham— Some States will say that nine States shall be sufficient to establish the plan— others will require unanimity for the purpose— And the different and conditional ratifications will defeat the plan altogether.

Mr Hamilton— No Convention convinced of the necessity of the plan will refuse to give it effect on th<sup>e</sup> adoption by nine States. He thought this mode less exceptionable than the one proposed in the article, and would attain the same end,

Mr Fitzimmons remarked that the words “for their approbation” had been struck out in order to save Congress from the necessity of an Act inconsistent with the Articles of Confederation under which they held their authority.

Mr Randolph declared if no change should be made in this part of the plan, he should be obliged to dissent from the whole of it. He had from the beginning he<sup>d</sup> said been convinced that radical changes in the system of the Union were necessary. Under this conviction he had brought forward a set of republican propositions as the basis and outline of a reform. The<sup>se</sup> Republican propositions had however, much to his regret been widely, and in his opinion, irreconcilably departed from— In this state of things it was his idea and he accordingly meant to propose, that the State Conventions sh<sup>d</sup> be at liberty to offer amendments to the plan,—and that these should be submitted to a second General Convention, with full power to settle the Constitution finally— He did not

expect to succeed in this proposition, but the discharge of his duty in making the attempt, would give quiet to his own mind.

Mr Wilson was against a reconsideration for any of the purposes which had been mentioned.

Mr King thought it would be more respectful to Congress to submit the plan generally to them; than in such a form as expressly and necessarily to require their approbation or disapprobation. The assent of nine States he considered as sufficient; and that it was more proper to make this a part of the Constitution itself, tha["n" written upon "t"] to provide for it by a supplemental or distinct recommendation.

Mr Gerry urged the indecency and pernicious tendency of dissolving in so slight a manner, the solemn obligations of the articles of confederation. If nine out of thirteen can dissolve the compact, Six out of nine will be just as able to dissolve the new one hereafter.

Mr Sherman was in favor of Mr King's idea of submitting the plan generally to Congress. He thought nine States ought to be made sufficient: but that it would <sup>be</sup> better to make it a separate act and in some such form as that intimated by Col: Hamilton, than to make it a particular article of the Constitution.

On the question for reconsidering the two articles. XXI & XXII—

N. H. div<sup>d</sup> Mas. ["no" written upon "ay"] C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> ["no" written upon "ay"] Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. ay. S. C. [<sup>no</sup>"ay" stricken out]. Geo. ay.

Mr Hamilton then moved to postpone art XXI in order to take up the following, containing the ideas he had above expressed, viz

Resolved that the foregoing plan of a Constitution be transmitted to the U. S. in Congress assembled, in order that if the same shall be agreed to by them, it may be communicated to the Legislatures of the several States, to the end that they may provide for its final ratification by referring the same to the Consideration of a Convention of Deputies in each State to be chosen by the people thereof, and that it be recommended to the said Legislatures in their respective acts for organizing such convention to declare, that if the said Convention shall approve of the said Constitution, such approbation shall be binding and conclusive upon the State, and further that if the said Convention should be of opinion that the same upon the assent of any nine States thereto, ought to take effect between the States so assenting, such opinion shall thereupon be also binding upon such State, and the said Constitution shall take effect between the States assenting thereto"

Mr Gerry 2<sup>d</sup> the motion.

Mr Wilson. This motion being seconded, it is necessary He expressed in strong terms his disapprobation of the expedient proposed, particularly the suspending the plan of the Convention on the approbation of Congress now to speak freely. He declared it to be worse than folly to rely on the concurrence ["of Rhode Island in" stricken out] of the Rhode Island members of Cong<sup>s</sup> in the plan. Maryland had voted on this floor; for requiring the unanimous assent of the 13 States to the proposed change in the federal System. N-York has not <sup>been represented</sup> ["thought proper" stricken out] for a long time past in the Convention. Many individual deputies from other States have spoken much against the plan. Under these circumstances Can it be safe to make the assent of Congress necessary. After spending four or five months in the laborious & arduous task of forming a



Government for our Country, we are <sup>ourselves</sup> at the close throwing insuperable obstacles in the way of its success.

M<sup>r</sup> Clymer thought that the mode proposed by M<sup>r</sup> Hamilton would fetter & embarrass Cong<sup>s</sup> ["just as much as any other since it equally required them to concur" stricken out] as much as the original one, since it equally involved a breach of the articles of Confederation.

M<sup>r</sup> King concurred with M<sup>r</sup> Clymer. If Congress can accede to one mode, they can to the other. If the approbation of Congress be made necessary, and they should not approve, the State Legislatures will not propose the plan to Conventions; or if the States themselves are to provide that nine States shall suffice to establish the System, that provision will be omitted, ["and" stricken out] every thing will go into confusion, and all our labor be lost.

M<sup>r</sup> Rutledge viewed the matter in the same light with M<sup>r</sup> ["King" written upon "M<sup>r</sup>"]

On the question to postpone in order to take up Col: <sup>motion</sup> Hamiltons.

N. H— no. Mas. no. C<sup>t</sup> ay. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no. V<sup>a</sup> no. N— C. no. S. C. no. Geo. no.

A Question being then taken on the article XXI. It was agreed to, unanimously.

Col: Hamilton withdrew the remainder of the motion to postpone art XXII, observing that his purpose was defeated by the vote just given; ["& the article negatived" erased]

M<sup>r</sup> Williamson & M<sup>r</sup> Gerry moved to re-instate the words "for the approbation of Congress" in art: XXII. which was disagreed to nem: con:

M<sup>r</sup> Randolph took this opportunity to state his objections to the System. They turned on the Senate's being made the Court of Impeachment for trying the Executive—on the necessity of  $\frac{3}{4}$  instead of  $\frac{2}{3}$  of each house to overrule the negative of the President—on the smallness of the number

of the Representative branch,—on the want of limitation to [“the” stricken out] a standing army—on the general clause concerning necessary and proper laws—on the want of some particular restraint [“against” stricken out]<sup>on</sup> Navigation acts—on the power to lay duties on exports—on the Authority of the general Legislature to interpose on the application of the Executives of the States—on the want of a more definite boundary between the General & State Legislatures—and between the General and State Judiciaries—on the the [“un” stricken out] unqualified power of the President to pardon treasons—on the want of some limit to the power of the Legislature in regulating their own compensations. With these difficulties in his mind, what course he asked was he to pursue? Was he to promote the establishment of a plan which he verily believed would end in Tyranny? He was unwilling he said to impede the wishes and Judgment of the Convention— but he must keep himself free, in case he should be honored with a Seat in the Convention of his State, to act according to the dictates of his judgment. The only mode in which his embarrassments could be removed, was that of submitting the plan<sup>1</sup> of Cong<sup>s</sup> to go from them to the State Legislatures, and from these to State Conventions having power to adopt reject or amend; the process to close with another general Convention with full power to adopt or reject the alterations proposed by the State Conventions, and to establish finally the Government— He accordingly proposed a Resolution to this effect.

Doc<sup>r</sup> Franklin 2<sup>d</sup> the motion

Col: Mason urged & obtained that the motion should lie on the table for a day or two to see what steps might <sup>be taken</sup> with regard to the parts of the system objected to by M<sup>r</sup> Randolph.

Mr Pinkney moved "that it be an instruction to the Committee for revising the stile and arrangement of the articles agreed on, to prepare an Address to the people, to accompany the present Constitution, and to be laid with the same before the U- States in Congress"

\*The motion itself was referred to the Committee. nem: con:

\*Mr Randolph moved to refer to the Committee also a motion relating to pardons in cases of Treason—which was agreed to nem: con:

Adjourned

Tuesday Sep<sup>r</sup> 11. 1787. In Convention

The report of the Committee of Stile & arrangement  
[<sup>not being made</sup> "having reported" stricken out] & being waited for,

The House Adjourned

Wednesday Sep<sup>r</sup> 12. 1787— In Convention

Doc<sup>t</sup> Johnson from the Committee of stile &c— reported a  
digest of the plan, of which printed copies <sup>ordered to be</sup> were furnished  
to the members— He also reported a letter to accompany  
the plan to, Congress. (here insert a transcript <sup>of the former</sup> ["of both"]

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\* These motions not <sup>entered</sup> ["noted" stricken out] in the printed Journal.

stricken out] from the annexed sheet as printed† and of the latter from the draft as finally agreed to

Mr WILLIAMSON moved to reconsider the clause requiring three fourths of each House to overrule the negative of the President, in order to strike out  $\frac{3}{4}$  and insert  $\frac{2}{3}$ . He had he remarked himself proposed  $\frac{3}{4}$  instead of  $\frac{2}{3}$ , but he had since been convinced that the latter proportion was the best. The former puts too much in the power of the President.

Mr SHERMAN was of the same opinion; adding that the

revision, or Stile & arrangement  
As Reported by Com. of [“Stile & arrangement” stricken out]. Sept. 12, consisting of Mr Johnson Mr Hamilton Mr Morris, Mr Madison & Mr King.

[Madison's copy of this Report is a printed broadside, preserved, with other printed papers, in Volume XV of "Writings to Madison", p. 16. It shows additions, alterations and interlineations in Madison's handwriting, and these are indicated here by reduced type. Underlining was likewise done by pen.]

WE, the People of the United States, in order to form a more perfect union, to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

## ARTICLE I.

*Sect. 1.* ALL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

*Sect. 2.* The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

(a) No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

(b) Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to servitude for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States,

† This is a literal copy of the printed Report. The Copy in the printed Journal contains some of the alterations subsequently made in the House.

States would not like to see so small a minority and the President, prevailing over the ["gener" stricken out] general voice. In making laws regard should be had to the sense of the people, who are to be bound by them, and it was more probable tha["t" written upon "n"] a single man should mistake or betray this sense than the Legislature

Mr Gov<sup>r</sup> MORRIS. Considering the difference between the

and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every forty thousand, but each state shall have at least one representative: and until such enumeration shall be made, the state of New-Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

(c) When vacancies happen in the representation from any state, the Executive authority thereof shall issue writs of election to fill such vacancies.

(d) The House of Representatives shall choose their Speaker and other officers; and they shall have the sole power of impeachment.

*Sect. 3.* The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years: and each senator shall have one vote.

(a) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year: and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any state, the Executive thereof may make temporary appointments until the next meeting of the Legislature.

(b) No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

\*The words "by lot"—were not in the Report as printed; but were inserted in manuscript, as a topographical error, departing from the text of the Report referred to the Committee of Style and arrangement.



two proportions numerically, it amounts in one House mem-<sup>to two</sup>bers only; and in the other to not more than five, ["which" stricken out] according to the numbers of which the Legislature is at first to be composed— It is the interest moreover of the distant States to prefer  $\frac{3}{4}$  as they will be oftenest absent

(c) The Vice-President of the United States shall be, ["ex officio" stricken out], President of the senate, but shall have no vote, unless they be equally divided.

(d) The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

(e) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.

(f) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

*Sect. 4.* The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof: but the Congress may at any time by law make or alter such regulations.

(a) The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

*Sect. 5.* Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business: but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

(a) Each house may determine the rules of its proceedings; punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

(b) Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and



and need the interposing check of the President. The excess rather than the deficiency <sup>of laws</sup> was to be dreaded. The example of N. York shows that  $\frac{2}{3}$  is not sufficient to answer the purpose.

Mr HAMILTON added his testimony to the fact that  $\frac{2}{3}$  in

nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

(c) Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

*Sect. 6.* The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

(a) No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

*Sect. 7.* The enacting stile of the laws shall be, "Be it enacted by the senators and representatives in Congress assembled."

(a) All bills for raising revenue shall originate in the house of representatives: but the senate may propose or concur with amendments as on other bills.

(b) Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States. If he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved

N. York had been ineffectual either where a popular object, or a legislative faction operated; of which he mentioned some instances.

M<sup>r</sup> Gerry. It is necessary to consider the danger on the other side also.  $\frac{2}{3}$  will be a considerable, perhaps a proper security.  $\frac{3}{4}$  puts too much in the power of a few men—The primary object of the revisionary check [“is not to defend” <sup>in the President is not to protect</sup> stricken out] <sup>^</sup> the general interest, but to defend

by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

(c) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by \*three-fourths of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

two thirds

*Sect. 8.* The Congress may by joint ballot appoint a treasurer. They shall have power

(a) To lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defence and general welfare of the United States. but all duties imposts & excises shall be uniform throughout the U. States.

(b) To borrow money on the credit of the United States.

(c) To regulate commerce with foreign nations, among the several states, and with the Indian tribes.

(d) To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

(e) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

\* In the entry of this Report in the printed Journal “two thirds” are substituted for “three fourths”. This change was [“made in the report by a vote on the 12<sup>th</sup>,” stricken out] [“not made till the 12 of Sept. of Sept” stricken out] made after the Report was received [“day of” stricken out]

his own department. If  $\frac{3}{4}$  be required, a few Senators having hopes from the nomination of the President to offices, will combine with him and impede proper laws. Making the vice-President Speaker increases the danger,

Mr Williamson was less afraid of too few than of too many laws. He was most of all afraid that the repeal of bad laws might be rendered too difficult by requiring  $\frac{3}{4}$  to overcome the dissent of the President.

Col: Mason had always considered this as one of the

(f) To provide for the punishment of counterfeiting the securities and current coin of the United States.

(g) To establish post offices and post roads.

(i) To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

(j) To constitute tribunals inferior to the supreme court.

(k) To define and punish <sup>† [punish]</sup>piracies and felonies committed on the high seas, and offences against the law of nations.

(l) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

(m) To raise and support armies: but no appropriation of money to that use shall be for a longer term than two years.

(n) To provide and maintain a navy.

(o) To make rules for the government and regulation of the land and naval forces.

(p) To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions.

(q) To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

(r) To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings—And

(s) To make all laws which shall be necessary and proper

† [punish] a typographical omission]

most exception<sup>able</sup> [“s” stricken out] parts of the System. As to the numerical argument of Mr Gov<sup>r</sup> Morris, little arithmetic was necessary to understand tha[“t” written upon “u”]  $\frac{3}{4}$  was more than  $\frac{2}{3}$ , whatever the numbers of the Legislature might be. The [“effect” stricken out] example of New York depended on the real merits of the laws. The Gentlemen citing it, had no doubt given their<sup>own</sup> opinions. But perhaps there were others of opposite opinions who could equally paint the abuses on the other side. His leading view

for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

*Sect. 9.* The migration or importation of such persons as the several states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

(a) The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

(b) No bill of attainder shall be passed, nor any ex post facto law.

(c) No capitation tax shall be laid, unless in proportion to the census herein before directed to be taken. No preference shall be <sup>those of</sup> given by any regulation of commerce or revenue to the ports of one State over another—nor shall vessels bound to or from one State be obliged to enter, clear or pay duties in another.

(d) No tax or duty shall be laid on articles exported from any state.

(e) No money shall be drawn from the treasury, but in consequence of appropriations made by law.

(f) No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

*Sect. 10.* No state shall coin money, [“u” stricken out] or emit bills of credit, [“u” stricken out] or make any thing but gold or silver coin a tender in payment of debts, [“u” stricken out] or pass any bill of attainder, [“u” stricken out] or ex post facto laws, [“u” stricken out] or laws altering or impair-

was to guard against too great an impediment to the repeal of laws.

Mr Gov<sup>r</sup> Morris dwelt on the danger to the public interest from the instability of laws, as the most to be guarded against. On the other side there could be little danger. If one man in office will not consent when he ought, every fourth year another can be substituted. This term was not too long for fair experiments. Many good laws are not tried long enough to prove their merit. This is often the

ing the obligation of contracts; ["n" stricken out] or grant letters of marque and reprisal, ["n" stricken out] or enter into any treaty, alliance, or confederation, ["n" stricken out] or grant any title of nobility.

(a) No state shall, without the consent of Congress, lay imposts or duties on imports or exports, ["n" stricken out] or with such consent, but to the use of the treasury of the United

States: ["Nor" stricken out] keep troops ["n" stricken out] or ships of war in time of peace, ["n" stricken out] or enter into any agreement or compact with another state, ["n" stricken out] or with any foreign power; ["N" stricken out] or engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent, as not to admit of delay until the Congress can be consulted. ["provided that no" stricken out]

No State shall without the consent of Congress

provided that no State shall be restrained from imposing the usual duties on produce exported from such State for the sole purpose of defraying the charges of inspecting packing storing & indemnifying the losses on such produce while in the custody of public officers. But all such regulations shall in case of abuse be subject to the revision & controul of Congress.

## II.

*Sect. 1.* The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected in the following manner:

(a) Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in Congress; but no senator or representative shall be appointed an elector, nor any person holding an office of trust or profit under the United States.

(b) The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And



case with new laws opposed to old habits. The Inspection laws of Virginia & Maryland to which all are now so much attached were unpopular at first.

Mr Pinkney was warmly in opposition to §4 as putting a dangerous power in the hands of a few Senators headed by the President.

Mr Madison. When §4 was agreed to, the President was

they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the general government, directed to the president of the senate. The president of the senate shall in the presence of the senate and house of representatives open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately chuse by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, ["and not per capita" stricken out], the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president ["by the representatives," stricken out] the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.

(c) The Congress may determine the time of choosing the electors, and the ["time" stricken out] ["o" written upon "i"]n which they shall give their votes; ["but the election shall be on the same day" stricken out] <sup>which day shall be the same</sup> throughout the United States.

(d) No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have



to be elected by the Legislature and for seven years— He is now to be elected by the people and for four years. The object of the revisionary power is twofold. 1. to defend the Executive ["Rights" written upon "prerogatives"] 2. to prevent popular or factious injustice. It was an important principle in this & in the State Constitutions to check legislative injustice and incroachments. The

attained to the age of thirty-five years, and been fourteen years a resident within the United States.

(e) In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or ["the period for choosing another president arrive," stricken out] a president be chosen.

(f) The president shall, at stated times, receive a fixed compensation for his services, which shall neither be increased nor diminished during the period for which he shall have been elected.

(g) Before he enter on the execution of his office, he shall take the following oath or affirmation: "I ———, do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my judgment and power, preserve, protect and defend the constitution of the United States."

*Sect. 2.* The president shall be commander in chief of the army and navy of the United States, and of the militia of the several States : he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, when called into the actual service of the United States, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

(a) He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall

Experience of the States had demonstrated that their checks are insufficient. We <sup>must</sup> compare the danger from the weakness ["of" written upon "from"]  $\frac{2}{3}$  with the danger from the strength of  $\frac{3}{4}$ . He thought on the whole the former was the greater. As to the difficulty of repeals, it

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appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for.

(b) The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

*Sect. 3.* He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient: he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper: he shall receive ambassadors and other public ministers: he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

*Sect. 4.* The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

### III.

*Sect. 1.* The judicial power of the United States, both in law and equity, shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

*Sect. 2.* The judicial power shall extend to all cases, both in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority. To all cases affecting ambas-

was probable that in doubtful cases the policy would soon take place of limiting the duration of laws so as to require renewal instead of repeal.

The reconsideration being agreed ["to" written upon "on"] On the question to insert 2<sub>3</sub> in place of 3<sub>4</sub>.

sadors, other public ministers and consuls. To all cases of admiralty and maritime jurisdiction. To controversies to which the United States shall be a party. To controversies between two or more States; between a state and citizens of another state; between citizens of different States; between citizens of the same state claiming lands under grants of different States, and between a state, or the citizens thereof, and foreign States, citizens or subjects.

In cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

*Sect. 3.* Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood nor forfeiture, except during the life of the person attainted.

#### IV.

*Sect. 1.* Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

*Sect. 2.* The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other

N- H- div<sup>d</sup> Mas. no. C<sup>t</sup> ay. N- J. ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay.  
 M<sup>r</sup> M<sup>c</sup>Henry no. V<sup>a</sup> no. Gen<sup>l</sup> Washington M<sup>r</sup> Blair, M<sup>r</sup>  
 Madison no. Col. Mason, M<sup>r</sup> Randolph ay. N- C- ay. S- C.  
 ay. Geo. ay.

M<sup>r</sup> Williamson, observed to the House that no provision

crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled be delivered up, and removed to the state having jurisdiction of the crime.

No person legally held to service or labour in one state, escaping into another, shall in consequence of regulations subsisting therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labour may be due.

*Sect. 3.* New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

*Sect. 4.* The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and on application of the legislature or executive, against domestic violence.

## V.

The Congress, whenever two-thirds of both houses shall deem necessary, or on the application [<sup>of two thirds</sup> "of two-thirds" stricken out] of the legislatures of the several states, shall propose amendments to this constitution, which shall be valid to all intents and purposes, as part thereof, when the same shall have been ratified by [<sup>of three fourths</sup> "three-fourths at least of" stricken out] the legislatures of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no amendment which may be made prior to the

was yet made for juries in Civil cases and suggested the necessity of it.

Mr Gorham. It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.

year 1808 shall in any manner affect the <sup>1 & 4 clauses</sup> [“and”  
the first  
stricken out] <sup>in the 9...</sup> section[“s” stricken out] of article

#### V I.

All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives beforementioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### V II.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this constitution between the States so ratifying the same.

In Convention, September 17, 1787.

*Sir,*

WE have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most adviseable.

The friends of our country have long seen and desired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correspond-

[This letter is in the form of a broad-side, preserved, with other printed papers, in Volume XV of “Writings to Madison” p. 10.]



Mr Gerry urged the necessity of Juries to guard ag<sup>st</sup> corrupt Judges. He proposed that the Committee last appointed should be directed to provide a clause for securing the trial by Juries.

Col: Mason perceived the difficulty mentioned by Mr Gorham. The jury cases cannot be specified. A general principle laid down on this and some other points would be sufficient. He wished the plan had been prefaced with a Bill of Rights, & would second a Motion if made for the purpose—It would give great quiet to the people; and [“would avoid”  
with the aid of stricken out] the State declarations, a bill might be prepared in a few hours.

Mr Gerry concurred in the idea & moved [“for” written

ent executive and judicial authorities should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the fœderal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all—Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was encreased by a difference among the several States as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit



upon "that"] a Committee to prepare a Bill of Rights.  
Col: Mason 2<sup>del</sup> the motion.

M<sup>r</sup> Sherman. was for securing the rights of the people where requisite. The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient— There are many cases where juries are proper which cannot be discriminated. The Legislature may be safely trusted.

Col: Mason. The Laws of the U. S. are to be paramount to State Bills of Rights. On the question for a Com<sup>e</sup> to prepare a Bill of Rights

N. H. no. Mas. abs<sup>t</sup> C<sup>t</sup> no. N- J- no. P<sup>a</sup> no. Del- no. M<sup>d</sup> no.  
V<sup>a</sup> no. N- C. no. S- C- no- Geo- no.

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of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every State is not perhaps to be expected; but each will doubtless consider, that had her interest alone been consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect,

We have the honor to be.

SIR,

Your EXCELLENCY's most

Obedient and humble Servants,

George Washington, President.

*By unanimous Order of the CONVENTION.*

HIS EXCELLENCY

The President of Congress.

The Clause relating to exports being reconsidered, at the instance of Col: Mason, Who urged that the restriction on the States would prevent the incidental duties necessary for the inspection & safe-keeping of their produce, and be ruinous to the Staple States, as he called the five Southern States, he moved as follows—"provided nothing herein contained shall be construed to restrain any State from laying duties upon exports for the sole purpose of defraying the Charges of inspecting, packing, storing and indemnifying the losses, in keeping the commodities in the care of public officers, before exportation," In answer to [<sup>a remark</sup> "an objection" stricken out] which he anticipated, to wit, that the States could provide for these expenses, by a tax ["i" written upon "o"] in some other way, he stated the inconveniency of requiring the Planters to pay a tax before the actual delivery for exportation.

Mr Madison 2<sup>d</sup> the motion— It would at least be harmless; and might have the good effect of restraining the States to bona fide duties for the purpose, as well as of authorizing explicitly such duties; <sup>perhaps the</sup> tho' best guard against an abuse of the power of the States on this subject, was the right in the Genl Government to regulate trade between State & State.

Mr Gov<sup>r</sup> Morris saw <sup>no</sup> objection to the motion. He did not consider the dollar per Hhd laid on Tob<sup>o</sup> in Virg<sup>a</sup> as a duty on exportation, as no drawback would be allowed on Tob<sup>o</sup> taken out of the Warehouse for internal consumption,

Mr Dayton was afraid the proviso w<sup>d</sup> enable Pennsylv<sup>a</sup> to tax N, Jersey under the idea of Inspection duties of which Pen<sup>a</sup> would Judge.

Mr Gorham & Mr Langdon, thought there would be no security if the proviso sh<sup>d</sup> be agreed to, for the States export-

ing thro' other States, ag<sup>st</sup> ["these" stricken out] oppressions of the latter. How was redress to be obtained in case duties should be laid beyond the purpose expressed?

M<sup>r</sup> Madison— There will be the same security as in other cases— The jurisdiction of the supreme Court must be the source of redress. So far only had provision been made <sup>by the plan</sup> ag<sup>st</sup> injurious acts of the States. His own opinion was, that this was insufficient, ["for the case" stricken out]— A negative on the State laws alone, could ["guard ag<sup>st</sup>" stricken out] meet all the shapes ["in" stricken out] which these could assume. But this had been overruled.

M<sup>r</sup> Fitzimons. Incidental duties on Tob<sup>o</sup> & flour, never have been & never can be considered as duties on exports—

M<sup>r</sup> Dickinson. Nothing will save ["the" stricken out] States in the situation of <sup>N. Hampshire</sup> N Jersey Delaware &c. from being oppressed by their Neighbors, but requiring the assent of Cong<sup>s</sup> to inspection <sup>duties</sup> ["laws" stricken out], He moved that this assent sh<sup>d</sup> accordingly be required

M<sup>r</sup> Butler 2<sup>d</sup> the motion.

Adjourned

Thursday Sep<sup>r</sup> 13. 1787. In Convention

Col. Mason— He had moved without success for a power to make sumptuary regulations. He had not yet lost sight of his object. After descanting on the extravagance of our manners, the excessive consumption of foreign superfluities, and the necessity of restricting it, as well with economical as republican views, he moved that a Committee be appointed to report articles of Association for encouraging by the advice

the influence and the example of the members of the Convention, economy frugality and american manufactures.

Doc<sup>r</sup> Johnson 2<sup>ded</sup> the motion which was without debate agreed to—nem: con: and a Committee appointed, consisting of Col: Mason, Doc<sup>r</sup> Franklin, M<sup>r</sup> Dickenson, Doc<sup>r</sup> Johnson, and M<sup>r</sup> Livingston.\*

Col: Mason renewed his proposition of yesterday on the subject of inspection <sup>laws</sup>, with an additional clause [“reserving to” <sup>giving to</sup> stricken out] Congress a controul over them <sup>in case of abuse</sup>—as follows,

“Provided that no State shall be restrained from imposing the usual duties on produce exported from such State, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public officers: but all such regulations shall in case of abuse, be subject to the revision and controul of Congress—”

There was no debate & on the question

N— H— ay. Mas. ay. C<sup>t</sup> ay. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay.  
N— C— ay. S. C. no— Geo. ay.

[“The printed report” stricken out] The Report from the Committee of stile and arrangement, was taken up, in order to be compared with the articles of the plan as agreed to by the House & referred to the Committee, and to receive the final corrections [“and sanction” written upon “of the House”] of the Convention.

Art: 1— sect. 2— <sup>On motion of Mr. Randolph</sup> the word “servitude” was struck out, and <sup>† unanimously</sup> “service” inserted, the former being thought to express the <sup>condition of</sup> [“obligation” stricken out] <sup>^</sup> slaves, & the latter the obligations of free persons.

\* This motion & appointment of the Committee, not in the printed Journal. No report was made by the Com<sup>e</sup>.

[“† See list of yeas and nays.” stricken out] † See page 372 of the printed Journal

M<sup>r</sup> Dickenson & M<sup>r</sup> Wilson moved <sup>to</sup> strike out <sup>and</sup> "direct taxes," from sect. 2. art. 1. as improperly placed in a clause relating merely to the Constitution of the House of Representatives.

M<sup>r</sup> Gov<sup>r</sup> Morris. The insertion here was in consequence of what had passed ["o" written upon "i"]n this point; in order to exclude the appearance of counting the Negroes in the Representation— ["The insertion may now be applied to" stricken out] The including of them may now be referred to the object of direct taxes, and incidentally only to ["relate" stricken out] that of Representation—

On the motion to strike out "and direct taxes" from this place

N— H— no— Mas— no— C<sup>t</sup> no. N— J— ay. P<sup>a</sup> no. D<sup>e</sup>l ay. M<sup>d</sup> ay. V<sup>a</sup> no— N. C. no. S. C. no. Geo. no.

Art. 1. sect. ["1" stricken out] 7.—"if any bill shall not be returned by the president within ten days (sundays excepted) after it shall have been presented to him &c"

M<sup>r</sup> Madison, & ["M<sup>r</sup> Randolph" stricken out] moved to insert between "after" and "<sup>in sect 7. art. 1</sup>it", the words "the day on which"— in order to prevent ["a question" written upon "doubts"] whether the day on which the bill be presented, ought to be counted or not as one of the ten days—

M<sup>r</sup> Randolph 2<sup>d</sup> the Motion.

M<sup>r</sup> Govern<sup>r</sup> Morris. The amendment is unnecessary. The law knows no fractions of days—

["A number" written upon "The Members"] of members being very impatient & calling for the question

N. H. no. Mas. no. C<sup>t</sup> no. N— J. no. P<sup>a</sup> ay. Del. no— M<sup>d</sup> ay— V<sup>a</sup> ay. N— C. no. S— C. no. Geo. no—

Doc<sup>r</sup> Johnson made a further report from the Committee of

stile &c of the following resolutions to be substituted for 22 & 23 articles

Resolved that the preceding Constitution be laid before the U- States in Congress assembled, and that it is the opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates chosen in each State by the people thereof, under the recommendation of its Legislature, for their assent & ratification; & that each Convention assenting & ratifying the same should give notice thereof to the U- S- in Cong<sup>s</sup> assembled-

"Resolved that it is the opinion of this Convention that as soon as the Conventions of nine States, shall have ratified this Constitution, the U- S- in Cong<sup>s</sup> assembled should fix a day on which electors should be appointed by the States which shall have ratified the same; and a day on which the Electors should assemble to vote for the President; and the time and place for commencing proceedings under this Constitution- That after such publication the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the day fixed for the election of the President, and should transmit their votes certified signed, sealed and directed, as the Constitution requires, to the Secretary of the U- States in Cong<sup>s</sup> assembled: that the Senators and Representatives should convene at the time & place assigned; that the Senators should appoint a President for the sole purpose of receiving, opening, and counting the votes for President, and that after he shall be chosen, the Congress, together with the President should without delay proceed to execute this Constitution."

Adjourned



Friday Sep<sup>r</sup> 14<sup>th</sup> 1787 In Convention

The Report of the Committee of stile [“&” written upon  
“of”] arrangement being resumed,

M<sup>r</sup> Williamson moved to reconsider in order to increase the  
number of Representatives fixed for the first Legislature.  
His purpose was to make an addition of one half [“in gen-  
eral” stricken out<sup>generally</sup>] to the number allotted to the respective  
States; and to allow two to the [“States” stricken out,  
“smallest” written upon “States”] States.

On this motion

N. H. no— Mas. no. C<sup>t</sup> no. N. J— no. P<sup>a</sup> ay— Del. ay. M<sup>d</sup> ay.  
V<sup>a</sup> ay. N C. ay. S— C. no. Geo. no

Art. 1. sect. 3.—the words “by lot” were struck out<sup>nem: con:</sup>  
on motion of M<sup>r</sup> Madison, that some rule might prevail  
in the rotation that would prevent both the members from  
the same State from going out at the same time—

“Ex officio” struck out of the same section as superfluous;  
and “or affirmation”. [“inserted” stricken out] after “oath” inserted also unanimously—  
nem: con:

M<sup>r</sup> Rutlidge and M<sup>r</sup> Gov<sup>r</sup> Morris moved “that persons  
impeached be suspended from their office until they be tried  
and acquitted”

M<sup>r</sup> Madison— The President is<sup>made</sup> too dependent already on  
the Legislature, by the power of one branch to [“impeach &  
of the other to try him” stricken out] This intermediate  
suspension, will put him in the power of one branch only—  
They can at any moment, in order to make way for the func-  
tions of another who will be more favorable to their views,  
vote a temporary removal of the existing magistrate—

M<sup>r</sup> King<sup>concurred</sup> in the opposition to the amendment

On the question to agree to it

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from the Report of five made Aug. 6.  
\* “By lot” had been reinstated. as a correction of the printed report by the Com<sup>e</sup> of stile &  
arrangement.

N- H. no. Mas. no- C<sup>t</sup> ay- N- J. no. P<sup>a</sup> no. Del- no. M<sup>d</sup> no.  
V<sup>a</sup> no. N- C. no. S. C. ay, Geo. ay,

Art. 1. sect. 4. "except as to the places of choosing  
Senators" added nem: con: to the end of the first clause,<sup>in order to exempt</sup>  
["to", illegible word stricken out] the seats of Gov<sup>t</sup> in the  
States from the power of Congress-

Art. 1. Sect. 5. "Each House shall keep a Journal of its  
proceedings, and from time to time publish the same,  
excepting such parts as may in their judgment["s"  
effaced] require secrecy."

Col: Mason & M<sup>r</sup> Gerry moved to insert after the word  
"parts" the words "of the proceedings of the Senate" so  
as to require publication of all the proceedings of the  
House of Representatives. ["It" effaced]

It was intimated on the other side that cases might  
arise where secrecy might be necessary in both Houses-  
Measures preparatory to a declaration of war in which the  
House of Rep<sup>s</sup> was to concur, were instanced.

On the question, it passed in the negative

["Seven States were in the Negative: three in the affirm-

<sup>Con: no</sup>  
N. H. no. (Rh. Isd:) Mas. no. (N. Y. abs) N. J. no. Pen. ay. Del- no.  
Mary. ay. Virg. no. N. C. ay. S. C. divid. Geo. no  
ative: one divided." stricken out]

M<sup>r</sup> Baldwin observed that the clause. art. 1. sect 6. ["dis-  
qualifying" stricken out] <sup>declaring that</sup> no member of Cong<sup>s</sup>, "during the  
time for which he was elected; shall be appointed to any  
Civil office under the authority of the U. S. which shall  
have been created, or the emoluments whereof shall have  
been increased during such time", would not extend to  
offices created by the Constitution; and the salaries of  
which would be created, not increased by Cong<sup>s</sup> at their  
<sup>the first</sup> first session- The members of Cong<sup>s</sup> consequently might

evade the disqualification in this instance.—He was neither seconded nor opposed; nor [“did” written upon “was”] any further [“pass” written upon “said”] on the subject.

Art. I. Sect. 8.“ The Congress “may by joint ballot appointed a Treasurer”

Mr Rutledge moved to strike out this power, and let the Treasurer be appoint<sup>ed</sup> [“ment” stricken out] in the same manner with other officers.

Mr Gorham & Mr King <sup>said</sup> that the motion, if agreed, to would have a mischievous tendency. The people are accustomed & attached to that mode of appointing Treasurers, and the innovation will [“be” stricken out] multiply objections to the System.

Mr Gov<sup>r</sup> Morris remarked that if the Treasurer be not appointed by the Legislature, he will be more narrowly watched, and more readily impeached—

Mr Sherman— As the two Houses appropriate money, it is best for them to appoint the officer who is to keep it; and to appoint him as they make the appropriation, not by joint, but several votes:

Gen<sup>l</sup> Pinkney. The Treasurer is appointed by joint ballot in South Carolina. The consequence <sup>is</sup> that bad appointments are made, and the Legislature will not listen to the faults of their own officer.

On the motion to strike out

N. H— ay. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del— ay— M<sup>d</sup> ay. V<sup>a</sup> no. N— C. ay. S. C. ay. Geo— ay.

Art I. sect. 8: To define & punish piracies and felonies <sup>“but all such duties imposts & excises, shall be uniform throughout the U— S—”</sup> was unanimously annexed to the power of taxation. on the high seas, and “punish” offences against the law of nations.

Mr Gov<sup>r</sup> Morris moved to strike out “punish” before the

words "offences ag<sup>st</sup> the law of nations." so as to let these be ["defined as well" stricken out] definable as well as punishable, by virtue of the preceding member of the sentence.

M<sup>r</sup> Wilson hoped the alteration would by no means be made. To pretend to define the law of nations which depended on the authority of all the Civilized Nations of the World, would have a look of arrogance, that would make us ridiculous.

M<sup>r</sup> Gov<sup>r</sup> The word define <sup>nations</sup> is proper when applied to offences in this case; the law of being often too vague and deficient to be a rule.

On the question to strike out the word "punish" <sup>it passed in the affirmative</sup>

N- H. ay. Mas- no. C<sup>t</sup> ay. N- J. ay. P<sup>a</sup> no. Del. ay M<sup>d</sup> no. V<sup>a</sup> no. N. C- ay- S- C- ay. Geo- no.

Doc<sup>t</sup> Franklin moved <sup>\*</sup>to add after the words "post roads" Art <sup>1</sup>["4" stricken out]. Sect. 8. ["the" effaced] "a power to provide for cutting canals where deemed necessary"

M<sup>r</sup> Wilson 2<sup>ded</sup> the motion

M<sup>r</sup> Sherman objected. The expense in such cases will fall on the U- States, and the benefit accrue to the places where the canals may be cut.

M<sup>r</sup> Wilson. Instead of being an expense to the U. S. they may be made a source of revenue.

M<sup>r</sup> Madison suggested an enlargement of the motion into a power "to grant charters of incorporation where the interest of the U. S. might require & the legislative provisions of individual States may be incompetent". His ["prim" stricken out] primary object was however to secure an easy communication between the States which the free intercourse

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\* This motion by D<sup>r</sup> Franklin ["omitted" stricken out] not stated in the printed Journal, as are some other motions.

now to be opened, seemed to call for— The political obstacles being removed, a removal of the natural ones as far as possible ought to follow. Mr Randolph <sup>2</sup>ded the proposition.

Mr King thought the power unnecessary.

Mr Wilson. It ["s" stricken out] is necessary to prevent a State from obstructing the general welfare.

Mr King— The States will be prejudiced and divided into parties by it— In Philad<sup>a</sup> & New York, It will be referred to the establishment of a Bank, which has been a subject of contention in those Cities. In other places it will be referred to mercantile monopolies.

M<sup>r</sup> Wilson mentioned the importance of facilitating by canals, the communication with the Western Settlements—As to Banks he did not think with M<sup>r</sup> King that the power in that point of view would excite the prejudices & parties apprehended. As to mercantile monopolies they [“have” stricken out] are already included in the power to regulate trade.

Col: Mason was for limiting the power to the single case of Canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution as supposed by Mr Wilson.

The motion being so modified as to admit a question specifying & limited to the case of canals,

N- H- no- Mas. no. C<sup>1</sup> no- N- J- no- P<sup>a</sup> ay. Del. no- M<sup>d</sup>  
no. V<sup>a</sup> ay. N- C- no- S- C. no- Geo. ay.

The other ["proposition" stricken out]<sup>part</sup> fell of course, as including the power reject["ed" written upon "ing"].

M<sup>r</sup> Madison & M<sup>r</sup> Pinkney then moved to insert in the list of powers vested in Congress a power—<sup>[“to” is stricken out]</sup> “to establish an University, in which no preferences or distinctions should be allowed on account of religion.”

Mr Wilson supported the motion

Mr Gov<sup>r</sup> Morris. ["It" written upon "The"] is not necessary. The exclusive power at the Seat of Government, will reach the object.

On the question

Cont. divid. Dr. Johnson ay- Mr. Sherman no.

N. H. no- Mas. no. ["C<sup>t</sup> ay" stricken out] N. J- no. P<sup>a</sup> ay.  
Del. no. M<sup>d</sup> no. V<sup>a</sup> ay. N- C- ay- S- C. ay. Geo- no.

Col: Mason, being sensible that an absolute prohibition of standing armies in time of peace might be unsafe, and wishing at the same time to insert something pointing out and guarding against the danger of them, moved to preface the clause (Art I sect. 8) "To provide for organizing, arming and disciplining the Militia &c" with the words "And that the liberties of the people may be better secured against the danger of standing armies in time of peace" Mr Randolph 2<sup>d</sup> the motion

Mr<sup>r</sup> Madison was in favor of it. It did not restrain Congress from establishing a military force in time of peace if found necessary; and as armies in time of peace are allowed on all hands to be an evil, it is well to discountenance them by the Constitution, as far as will consist with the essential power of the Gov<sup>t</sup> on that head.

Mr Gov<sup>r</sup> Morris opposed the motion as setting a dishonorable mark of distinction on the military class of Citizens

Mr Pinkney & Mr Bedford concurred in the opposition.

On the question

N. H- no- Mas- no- C<sup>t</sup> no. N- J- no. P<sup>a</sup> no. Del. no. <sup>Mary<sup>d</sup> no</sup> V<sup>a</sup> ay-  
N. C. no. S. C. no. Geo. ay.

["Col: Moved to strike out of the clause (art. 1 sect. 10). prohibiting the States to coin money &c nor to pass bills of attainder, nor ex post facto laws—the words 'nor ex post facto laws' " stricken out]



<sup>["500 000 and and" effaced]</sup>

Col: Mason moved to strike out from the clause (art I sect 9.) "No bill of attainder nor any ex post facto law shall be passed" the words "nor any ex post facto law". He thought it not sufficiently clear that the <sup>prohibition meant</sup> ["meaning" stricken out] by this phrase was limited to cases of a criminal nature— and no Legislature ever did or can altogether avoid them in Civil cases.

Mr Gerry 2<sup>ded</sup> the motion but <sup>with a view</sup> ["intended" stricken out] to extend the prohibition to "Civil cases", ["in" stricken out] which he thought ought to be done.

On the question; all the States were—no

["N. H. no. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> no— V<sup>a</sup> no. N. C. no. S. C. no. Geo. no." stricken out]

Mr Pinkney & Mr Gerry, moved to insert a declaration "that the liberty of the Press should be inviolably observed—"

Mr Sherman— It is unnecessary— The power of Congress does not extend to the Press. On the question, it passed in the negative

N— H— <sup>no</sup>— Mas— <sup>ay</sup>— C<sup>t</sup> <sup>["#" stricken out]</sup> no. N— J. no. P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C. no. S. C. ay. Geo— no.

Art I. Sect. 9. "no capitation tax shall be laid, unless &c"

Mr Read moved to insert after "capitation" the words. "or other direct tax" He was afraid that some liberty might otherwise be taken to saddle the States ["by this rule" stricken out], with a readjustment by this rule, of past Requisitions of Cong<sup>s</sup>—and that his amendment by giving another cast to the meaning would take away the pretext.

Mr Williamson 2<sup>ded</sup> the motion, which was agreed to,

On motion of Col: Mason "or enumeration" inserted after, as <sup>["an" stricken out]</sup> explanatory of "Census" Con. & S. C. only no.

X At the end of the clause "no tax or duty shall be laid on articles exported from any State" was added the following amendment conformably to a vote on the day of viz—no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to or from one State, be obliged to enter, clear or pay duties in another.

X Here insert the amendment added in ["margin" stricken out] the lateral margin

Col. Mason moved a clause requiring "that an Account of the public expenditures should be annually published" Mr Gerry 2<sup>ded</sup> the motion

Mr Gov<sup>r</sup> Morris urged that this w<sup>d</sup> be impossible in many cases.

Mr King remarked, that the term expenditures went to every minute shilling. This would be impracticable. Cong<sup>s</sup> might indeed make a monthly publication, but it would be in such general Statements as would afford no satisfactory information.

Mr Madison proposed to strike out "annually" from the motion & insert "from time to time". which would enjoin the duty of frequent publications and leave enough to the discretion of the Legislature. ["R" written upon "T"] equire too much and the difficulty will beget a habit of doing nothing. The articles of Confederation require half-yearly publications on this subject— A punctual compliance <sup>being</sup> ["has been" stricken out] often impossible, the practice has ceased altogether—

Mr Wilson 2<sup>ded</sup> & supported the motion— Many operations of finance cannot be properly published at certain times.

Mr Pinkney was in favor of the motion.

Mr Fitzimmons— It is absolutely impossible to publish expenditures in the full extent of the term.

Mr Sherman thought "from time to time" the best rule to be given.

"Annual" was struck out—& those words—inserted nem: con:

The motion of Col. Mason so amended was then agreed to and added after—"appropriations by law as follows—"And a regular statement and account of the receipts & expenditures of all public money shall be published from time to time."

‡ Here insert the amendment at the foot of the page

‡ The first clause of Art I. sect 10—was altered so as to read—"No State shall enter into any Treaty alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold & silver coin a tender in payment of debts; pass any bill of attainder, ex post law, or law impairing the obligations of contracts, or grant any title of nobility."

Mr Gerry entered into observations inculcating the importance of public faith, and the propriety of the restraint put on the States from impairing the obligation of contracts—Alledging that Congress ought to be laid under the like prohibitions. he made a motion to that effect. He was not 2<sup>ded</sup>

Adjourned.

Saturday Sep<sup>r</sup> 15<sup>th</sup> 1787. In Convention

Mr Carrol reminded the House that no address <sup>to the people</sup> had yet been prepared [“to accompany the Constitution” stricken out]. He considered it of great importance that such an one should accompany the Constitution. The people had been accustomed to such on great occasions, and would expect it on this— He moved that a Committee be appointed for the special purpose of preparing an Address.

Mr Rutledge objected on account of the delay it would produce and the impropriety of addressing the people before it was known whether Congress would approve and support the plan— Congress, if an address be thought proper can prepare as good a one— The members of the Convention can also explain the reasons of what has been done to their respective Constituents.

Mr Sherman concurred in the opinion that an address was both unnecessary and improper.

On the motion of Mr Carrol

N— H. no. Mas. no— C<sup>t</sup> no. N— J— no. P<sup>a</sup> ay. Del. ay. M<sup>d</sup> ay—  
V<sup>a</sup> ay. N— C. <sup>†</sup>abs<sup>t</sup> S. C. <sup>†</sup>no. Geo. no—

Mr Langdon. Some gentlemen have been very uneasy

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\* In the printed Journal N. Carolina— no & S. Carol: omitted.

that no increase of the number of Representatives has been admitted. It has in particular been thought that one more ought to be allowed to N. Carolina. He was of opinion that <sup>one ["was" written upon "ought"] due</sup> an additional ["ought" stricken out] both to that State & to Rho: Island. & moved to reconsider for that purpose.

[“M<sup>r</sup> King said he should any change which” stricken out]

M<sup>r</sup> Sherman. When the Committee of eleven reported the apportionment— five Representatives were thought the proper share of N— Carolina. Subsequent information however seemed to entitle that State to another—

On the motion to reconsider

N— H— ay— Mas— no. C<sup>t</sup> ay— N— J. no— Pen. div<sup>d</sup> Del. ay. M<sup>d</sup> ay. V<sup>a</sup> ay— N. C. ay. S— C. ay. Geo. ay.

M<sup>r</sup> Langdon moved to add 1 member to each of the Representations of N— Carolina & Rho: Island.

M<sup>r</sup> King was ag<sup>st</sup> any change whatever as opening the door for delays. There had no official proof that the numbers of N— C are greater than before <sup>been</sup> estimated. And he never could sign the Constitution if Rho: Island is to be allowed two members that <sup>is</sup> one fourth of the number allowed to Mass<sup>ts</sup>, which will be known to be unjust.

M<sup>r</sup> Pinkney urged the propriety of increasing the number of Rep<sup>s</sup> allotted to N. Carolina.

M<sup>r</sup> Bedford contended for an increase in favor of Rho: Island, [“also” stricken out] <sup>and</sup> of Delaware <sup>also</sup>

On the question for allowing two Rep<sup>s</sup> to Rho: Island <sup>it passed in the negative</sup>

N. H— ay. Mas. no. C<sup>t</sup> no. N. J. no. P<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N. C— ay. S. C. no— Geo— ay.

On the question for allowing six to N. Carolina, <sup>it passed in the negative</sup>

N. H. no. Mas. no. C<sup>t</sup> no— N. J. no. P<sup>a</sup> no. Del— no— M<sup>d</sup> ay. V<sup>a</sup> ay. N— C. ay. S— C. ay. Geo. ay.

Art 1. sect. 10. (paragraph) 2) "No State shall, without the consent of Congress lay imposts or duties on imports or exports; nor with such consent, but to the use of the Treasury of the U. States"—

[“This This” stricken out] In consequence of the proviso moved by Col: Mason: and agreed to on the 13 Sep<sup>r</sup>, this part of the section was laid aside in favor of the following substitute viz. “No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its Inspection laws; and the nett produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the U- S-; and all such laws shall be subject to the revision and controul of the Congress”

On a motion to strike out the last part “and all such laws shall be subject to the revision and controul<sup>the</sup> of Congress” it passed in the Negative.

N. H. no. Mas. no. C<sup>l</sup> no- N. J. no. P<sup>a</sup> div<sup>d</sup> Del. no. M<sup>d</sup> no V<sup>a</sup> ay- N- C- ay. S. C. no Geo. ay.

The substitute was then agreed to: Virg<sup>a</sup>. alone being in the Negative.

The remainder of the paragraph being under consideration —viz—“nor keep troops nor ships of war in time of peace, nor enter into any agreement or compact with another State, nor with any foreign power. Nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent as not to admit of delay, until Congress can be consulted”

M<sup>r</sup> McHenry & M<sup>r</sup> Carrol moved that “no State shall be restrained from laying duties of tonnage for the purpose of clearing harbours and erecting light-houses”.

Col. Mason in support of this explained and urged the situation of the Chesapeak which ["stood" stricken out] peculiarly required ["these", illegible words stricken out] expenses of this sort.

M<sup>r</sup> Gov<sup>r</sup> Morris. The States are not restrained from laying tonnage as the Constitution now Stands. The exception proposed will imply the Contrary, and will put the States in a worse condition than the gentleman [Col Mason] wishes.

M<sup>r</sup> Madison. Whether the States are now restrained <sup>from laying ["a" stricken out] tonnage duties</sup> depends on the extent of the power "to regulate commerce". These terms are <sup>vague</sup> ["somewhat obscure" stricken out] but seem to exclude this power of the States— They may certainly be restrained by Treaty. He observed that there were other objects for tonnage Duties as the support of Seamen &c. He was more & more convinced that the regulation of Commerce was in its nature indivisible and ought to be wholly under one authority.

M<sup>r</sup> Sherman. The power of the U. States to regulate trade being supreme can controul interferences of the State regulations which such interferences <sup>when</sup> <sup>happen</sup>; so that there is no danger ["to written upon "in"] be apprehended from a concurrent jurisdiction.

M<sup>r</sup> Langdon insisted that the regulation of tonnage was an essential part of the regulation of trade, and that the States ought to have nothing to do with it. On motion "that no "State shall lay any duty on tonnage without the Consent "of Congress"

N. H— ay— Mas. ay. C<sup>t</sup> div<sup>d</sup> N. J. ay. Pa<sup>a</sup> no. Del. ay. M<sup>d</sup> ay. V<sup>a</sup> no. N— C. no. S— C. ay. Geo. no.

The remainder of the paragraph was then remoulded and passed as follows viz—"No State <sup>shall</sup> without the consent of



Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, <sup>["unless it shall " stricken out]</sup> unless actually invaded, or in such imminent danger as will not admit of delay"

Art II. sect. 1. (paragraph 6) "or the period for choosing another president arrive" was changed into "or a President <sup>shall</sup> be elected" conform["ably" written upon "ed"] to a vote of the      day of

M<sup>r</sup> Rutledge and Doc<sup>r</sup> Franklin moved to annex to the end paragraph 7. sect. 1. art II—"and he [the President] shall not receive, within that period, any other emolument from the U. S. or any of them." on which question

N- H. ay- Mas. ay. C<sup>t</sup> no. N. J. no. P<sup>a</sup> ay. Del. no. M<sup>d</sup> ay- V<sup>a</sup> ay. N. C. no. S- C. ay. Geo- ay.

Art: II. sect. 2. "he shall have power to grant reprieves and pardons for offences against the U. S. &c"

M<sup>r</sup> Randolph <sup>moved</sup> to "except cases of treason". The prerogative of pardon in these cases was too great a trust. The President may himself be guilty. The Traytors may be his own instruments.

Col: Mason supported the motion.

M<sup>r</sup> Gov<sup>r</sup> Morris had rather there should be no pardon for treason, than let the power devolve on the Legislature.

M<sup>r</sup> Wilson. Pardon is necessary for cases of treason, and is best placed in the hands of the Executive. If he be himself a party to the guilt he can be impeached and prosecuted.

M<sup>r</sup> King thought it would be inconsistent with the Constitutional separation of the Executive & Legislative powers to let the prerogative ["be be abused to" <sup>be exercised by</sup> stricken out] the latter    A Legislative body is utterly unfit for the purpose.

They are governed too much by the passions of the moment. In Massachusetts, one assembly would have hung all the insurgents in that State: the next <sup>was</sup> equally disposed to pardon them all. He suggested the expedient of requiring the concurrence of the Senate in Acts of Pardon.

M<sup>r</sup> Madison admitted the force of objections to the Legislature, but the pardon of treasons so <sup>was</sup> peculiarly improper for the President that he should acquiesce in the transfer of it to the former, rather than leave it altogether in the hands of the latter. He would prefer to either an association of the Senate as a Council of advice, with the President.

M<sup>r</sup> Randolph could not admit the Senate into a share of the Power. the great danger to liberty lay in a combination between the President & that body—

Col: Mason. The Senate has already too much power—There can be no danger of too much lenity in legislative pardons, [“as” written upon “and”] the Senate must concur, & the President moreover <sup>can</sup> require  $\frac{2}{3}$  of both Houses

On the motion of M<sup>r</sup> Randolph

N. H. no— Mas. no— C<sup>t</sup> div<sup>d</sup> N— J— no. P<sup>a</sup> no— Del. no. M<sup>d</sup> no— V<sup>a</sup> ay— N— C. no— S. C. no. Geo— ay.

Art II. sect. 2. (paragraph 2) [“To” written upon “M<sup>r</sup>”] the end of this, M<sup>r</sup> Govern<sup>r</sup> Morris moved to annex “but the Congress may by law vest the appointment of such inferior Officers as they think proper, in the President alone, in the Courts of law, or in the heads of Departments.” M<sup>r</sup> Sherman 2<sup>d</sup> the motion

M<sup>r</sup> Madison. It does not go far enough <sup>if it be necessary at all—</sup> Superior Officers below Heads of Departments ought in some cases to have the appointment of the lesser officis.

M<sup>r</sup> Gov<sup>r</sup> Morris There is no necessity. Blank Commissions can be sent—

On the motion

N. H. ay. Mas—no—C<sup>t</sup> ay. N. J. ay. P<sup>t</sup> ay. Del. no. M<sup>d</sup> div<sup>d</sup>  
V<sup>a</sup> no. N. C. ay—S C no. Geo—no—

The motion being lost by the equal division <sup>of votes,</sup> It was urged that it be put a second time, [“the provision” <sup>some such provision</sup> <sup>a second question it was agreed to nem. con.</sup> stricken out] being too necessary, to be omitted. and on,

Art II Sect. 1.  
Art II. The words, “and not per capita”—were struck out as superfluous—and the words “by the Representatives” also—as improper, the choice of President being in another mode as well as eventually by the House of Rep—

[“on second question it was agreed to nem: con:” stricken out]

Art: II. Sect. 2. After “Officers of the U. S whose appointments are not otherwise provided for,” were added the words “and which shall be established by law”.

[“Art” written upon “M<sup>r</sup>”] III. sect. 2. parag: 3. . M<sup>r</sup>  
Pinkney & M<sup>r</sup> Gerry  
[“Gerry” stricken out] moved to annex to the end. “And a trial by jury shall be preserved as usual in civil cases.”

M<sup>r</sup> Gorham. The <sup>constitution of Juries</sup> [“mode of trial” stricken out] is different in different States and the trial itself is usual in different cases in different States,

M<sup>r</sup> King urged the same objections

Gen<sup>l</sup> Pinkney also. He thought such a clause in the Constitution would be pregnant with embarrassments.

The motion was disagreed to nem: con:

Art. IV. sect 2. parag: 3. the term “legally” was struck out, and “under the laws thereof” inserted <sup>after the word “State”</sup> [“in another place” stricken out], in compliance with the wish of some who thought th[“e” written upon “at”] <sup>legal</sup> term equivocal, and favoring the idea that slavery was legal in a moral view—

Art. IV. sect 3. “New States may be admitted by the Congress into this Union: but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States,

or parts of States, without the consent of the Legislatures of the States concerned as well as of the Cong<sup>s</sup>

Mr Gerry moved to insert after "or parts of States" the words "or a State and part of a State" which was disagreed to by a large majority; it appearing to be supposed that the cas["e" written upon "es"] was comprehended in the words of the clause as reported by the Committee.

Art IV sect. 4 After the word "Executive" were inserted the words "when the Legislature cannot be Convened"

Art- V. "The Congress, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided that no amendment which may be made prior to the year 1808 shall in any manner affect the <sup>1 & 4 clauses in the 9.</sup> ["and" stricken out] sections of article I."

<sup>Sherman</sup> Mr expressed his fears that three fourths of the States might be brought to do things fatal to particular States, as abolishing them altogether or depriving them of their equality in the Senate. He thought it reasonable that the proviso in favor of the States importing slaves should be extended so as to provide that no State should be affected in its internal police, or deprived of its equality in the Senate.

Col: Mason thought the plan of amending the Constitution exceptionable & dangerous. ["As" written upon "The"] the proposing of amendments is in both the modes to depend, in the first immediately, and in the second, ulti-

mately, on Congress, no amendments of the proper kind <sup>intended by the people</sup> would ever be ["proposed" stricken out], if the Government should become oppressive, as he verily believed would be the case.

<sup>Mr. Govt. Morris & Mr. Gerry moved to amend the article as to the application of 2 of the 4th</sup>

Mr. Madison did not see why Congress would not be as much ["bound" stricken out] bound to propose amendments applied for by two thirds of the States as to call a call a Convention on the like application. He saw no objection however ["to" stricken out] <sup>against</sup> providing for a Convention for the purpose of amendments, ["unless" stricken out] <sup>essentially</sup> that difficulties might arise as to the form, the quorum &c. which in Constitutional regulations ought to be as much as possible avoided.

The motion of Mr. Govt. Morris and Mr. Gerry was agreed <sup>the first part of the article as passed</sup> to nem: con [see: the first part of the article as finally past] <sup>the whole of the article as passed</sup>

["Mr. Sherman moved to strike out after 'amendments' the words 'which &c. in either case shall be valid &c. as last passed'" stricken out]

Mr. Sherman moved to strike out of art. V. after "legislatures" the words "of three fourths" and so after the word "Conventions" leaving future Conventions to act in this matter, like the present Conventions according to circumstances.

On this motion

N- H- divt Mas- ay- Ct- ay. N- J. ay- P- no. Del- no. M- no. V- no. N. C. no. S- C. no. Geo- no.

Mr. Gerry moved to strike out the words "or by Conventions in three fourths thereof"

On this motion

N- H- no. Mas. no- Ct- ay. N- J. no. P- no- Del- no. M- no. V- no. N- C. no. S. C. no- Geo- no.

Mr. Sherman moved according to his idea above expressed

to annex to the end of the article a further proviso "that no State shall without its consent be affected in its internal police, or deprived of its equal suffrage in the Senate",

M<sup>r</sup> Madison. Begin with these <sup>special</sup> provisos, and every State will insist on them, for their boundaries, exports &c.

On the motion of M<sup>r</sup> Sherman

N. H— no. Mas. no. C<sup>t</sup> ay. N. J. ay— P<sup>a</sup> no. Del— ay. M<sup>d</sup> no. V<sup>a</sup> no N. C. no. S. C. no. Geo. no.

M<sup>r</sup> Sherman then moved to strike out art V altogether

M<sup>r</sup> Brearly 2<sup>ded</sup> the motion, on which

N. H. no. Mas. no. C<sup>t</sup> ay. N. J. ay. P<sup>a</sup> no. Del. div<sup>d</sup> M<sup>d</sup> no. V<sup>a</sup> no. N. C. no. S. C. no. Geo. no

M<sup>r</sup> Gov<sup>r</sup> Morris moved to annex a further proviso—"that no State, without its consent shall be deprived of its equal suffrage in the Senate"

This motion being dictated by the circulating murmurs of the small States was agreed <sup>to</sup> without debate, ["s" stricken out] no one opposing it, or on the <sup>question, saying no.</sup> ["call of the States answering" stricken out]

Col: Mason expressing his discontent at the power given to Congress by a bare majority to pass navigation acts, which he said would not only enhance the freight, a consequence he did not so much regard—but <sup>would</sup> enable a few rich merchants in <sup>Philada</sup> N. York & Boston, to monopolize the Staples of the <sup>States</sup> Southern & reduce their value perhaps 50 Per C<sup>t</sup> moved a further proviso "that no law in nature of a navigation act be passed before the year 1808, without the consent of  $\frac{2}{3}$  of each branch of the Legislature

On this motion

N. H. no. Mas— no. C<sup>t</sup> no. N— J. no— P<sup>a</sup> no. Del. no. M<sup>d</sup> ay. V<sup>a</sup> ay. N. C abs<sup>t</sup> S. C. no— Geo— ay.



Mr Randolph animadverting on the indefinite and dangerous power given by the Constitution to Congress, ["and" stricken out] expressing the pain he felt at differing from the body of the Convention, on the close of the great & awful subject of their labours, and anxiously wishing for some accommodating expedient ["by" stricken out] which would relieve him ["and them" stricken out] from his embarrassments, ["moved" stricken out] <sup>made a motion importing</sup> "that amendments to the plan might be offered by the State Conventions, which should be submitted to and finally decided on by another general Convention" Should this proposition be disregarded, it would he said be impossible for him to put his name to the instrument. Wh["ether he" written upon "at part he"] should oppose it afterwards he would not then decide but he would not deprive himself of the freedom to do so in his own State, if that course should be prescribed by his final judgment—

Col: Mason 2<sup>d</sup> & followed Mr Randolph in animadversions on the dangerous power and structure of the Government, concluding that it would end either in monarchy, or a tyrannical aristocracy; which, he was in doubt, but one or other, he was sure. This Constitution had been formed without the knowledge or idea of the people. A second Convention will know more of the sense of the people, and be ["more" stricken out] <sup>a system</sup> able to provide more consonant to it. It was improper to say to the people, take this or nothing. As the Constitution now stands, he could neither give his support or vote in Virginia; and he could not sign here what he could not support there. With the expedient of another Convention as proposed, he could sign.

Mr Pinkney. These declarations from members so respect-

able at the close of this important scene, give a peculiar solemnity to the present moment. He descanted on the consequences of calling forth the deliberations & amendments of the different States on the subject of Government at large. Nothing but confusion & contrariety could spring from the experiment. The States will never agree in their plans—And the Deputies to a second Convention coming together under the discordant impressions of their Constituents, will never agree. Conventions are serious things, and ought not to be repeated— He was not without objections as well as others to the plan. He objected to the contemptible weakness & dependence of the Executive. He objected to the power of a majority only of Cong<sup>s</sup> over Commerce. But apprehending the danger of a general confusion, and an ultimate decision by the Sword, he should give the plan [“also” stricken out] his support.

Mr Gerry, stated the objections which determined him to withhold his name from the Constitution. 1. the duration and re-eligibility of the Senate. 2. the power of the House of Representatives to conceal their journals. 3— the power of Congress over the places of election. 4 the unlimited power of Congress over their own compensations. 5 Massachusetts has not a due share of Representatives allotted to her. 6. [<sup>3</sup>/<sub>5</sub>] written upon “the” of the Blacks are <sup>to be represented as if they were freemen</sup> [“counted as freemen in the apportionments” stricken out] <sup>7. Under</sup> the power over commerce, monopolies may be established. 8. The vice president being made head of the Senate. He could however he said get over all these, if the rights of the Citizens were not rendered insecure [“1.” written upon “by”] by the general power of the Legislature to make what laws they may please to call necessary and proper.

2. raise armies ["without" stricken out] and money without limit. 3. to establish a tribunal without juries, which will be a Star-chamber as to Civil cases. Under such a view of the Constitution, the best that could be done he conceived was to provide for a second general Convention.

On the question on the proposition of M<sup>r</sup> Randolph. All the States <sup>answered- no</sup> ["said no" stricken out.]

On the question to agree to the Constitution. as amended. All the States ["said" stricken out] ay.

The Constitution was then ordered to be engrossed.

And the House adjourned

Monday Sep<sup>r</sup> 17. 1787. In Convention

The engrossed Constitution being read,

Doc<sup>r</sup> Franklin rose with a ["written" stricken out] speech in his hand, which he had reduced to writing for his own conveniency, and which M<sup>r</sup> Wilson read in the words following.

M<sup>r</sup> President

I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men indeed as well as 'most sects in Religion, think themselves in possession of all truth, and that wherever others differ

from them it is so far error. Steele, a Protestant in a Dedication tells the Pope, that the only difference between our Churches in their opinions of the certainty of their doctrines is, the Church of Rome is infallible and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain french lady, who in a dispute with her sister, said "I don't know how it happens, Sister but I meet with no body but myself, that's always in the right"—Il n'y a que moi qui a toujours raison."

In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other. I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an Assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders

of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good— I have never whispered a syllable of them abroad— Within these walls they were born, and here they shall die— If every one of us in returning to our Constituents were to report the objections he has had to it, and endeavor to gain partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects & great advantages resulting naturally in our favor among foreign Nations as well as among ourselves, from our real or apparent unanimity. Much of the strength & efficiency of any Government in procuring and securing happiness to the people, depends, on opinion, on the general opinion of the goodness of the Government, as well as well as of the wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress & confirmed by the Conventions) wherever our influence may extend, and turn our ["future" written upon "thoughts"] & endeavors to the means of having it well administered.

On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility— and to make manifest our unanimity, put his name to this instrument."—He then

moved that the Constitution be signed by the members and offered the follow[“ing” written upon “ed”] as a convenient form viz. “Done in Convention, by the unanimous consent of the States present the 17<sup>th</sup> of Sep<sup>r</sup> &c— In Witness whereof we have hereunto subscribed our names.”

This <sup>ambiguous</sup> form had been drawn up by M<sup>r</sup> G. M. [“and put into the hands of” stricken out] in order to gain the dissenting members, and put into the hands of Doc<sup>t</sup> Franklin that it might have the better chance of success.

M<sup>r</sup> Gorham said if [“was” stricken out] <sup>it was not</sup> too late he could wish, for the purpose of lessening objections to the Constitution, that the clause declaring “the number of Representatives shall not exceed one for every forty thousand—” which had produced so much discussion, might be yet reconsidered, in order to strike out 40,000 & insert “thirty thousand” This would not he remarked establish that as an absolute rule, but only give Congress a greater latitude which could not be thought unreasonable.

M<sup>r</sup> King & M<sup>r</sup> Carrol seconded & supported the ideas of M<sup>r</sup> Gorham.

When the President rose, [“for” written upon “with”] the purpose of putting the question, [“he made a few observations” stricken out] he said that although his situation had hitherto restrained him from offering his sentiments on questions depending in the House, and [“it” written upon “as”] might be thought, ought now to impose silence on him, yet he could not forbear expressing his wish that the alteration <sup>proposed</sup> might take place. It was much to be desired that the objections to the plan recommended might be made as few as possible— The smallness of the proportion of Representatives ha[“d” written upon “s”]



been considered by many members of the Convention,["s to be much"<sup>an</sup> stricken out] insufficient security for the rights & interests of the people. He acknowledged that it had always appeared to himself among the exceptionable parts of the plan; <sup>and late as the present moment was [ "for making" stricken out] for admit-</sup> [illegible words, "of such peculiar importance <sup>ting amendments, he thought this of so much consequence that it would give much</sup> was its amendments, he could not therefore suppress his approbation of the mo" stricken out] satisfaction to see it adopted.

\*[this was the only occasion on which the President entered at all into the discussions of the Convention]

No opposition was made to the proposition of M<sup>r</sup> Gorham and it was agreed to unanimously

On the question to agree to the Constitution enrolled in order to be signed. It was agreed to all the States answering ay.

M<sup>r</sup> Randolph then rose and with an allusion to the observations of Doc<sup>t</sup> Franklin, apologized for <sup>his refusal to sign the Constitution,</sup> ["yielding to his own <sup>notwithstanding the vast</sup> judgment against so app among so", stricken out] majority & venerable, <sup>names that</sup> ["characters whose names" stricken out] would give sanction to its wisdom and <sup>its</sup> worth. He said however <sup>did not</sup> that he mean by this refusal to decide that he should oppose the Constitution without doors. He meant only to keep himself free to be governed by his duty as it should be prescribed by his future judgment— He refused to sign, because he thought the object of the convention would be frustrated by the alternative which ["they" stricken out] <sup>it</sup> presented to the people. Nine States will fail to ratify the plan and confusion must ensue. With such a view of the subject <sup>he ought not,</sup> he could not, by pledging himself to support the["s" effaced] plan, ["thus" stricken out] restrain himself from taking

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\* Transfer the remarks in brackets, to the bottom margin—

[“use of such means” stricken out] such steps as might appear to him most consistent with the public good.

Mr Gov<sup>r</sup> Morris said that he too had objections, but considering the present <sup>plan</sup> [“results of all deliberations” stricken out] as the best that was to be attained, he should take it with all its faults. The majority had determined in its favor and by that determination he should abide. The moment this plan goes forth <sup>[“topics & projects” erased]</sup> all other [“matters whatever interest the public” stricken out] <sup>considerations</sup> will be laid aside— and the great question will be, shall there be a national Government or not? and this must take place or a general anarchy <sup>will</sup> be the alternative— He remarked that the signing in the form proposed related only to the fact that the States present were unanimous.

Mr Williamson suggested that the signing should be confined to the letter accompanying the Constitution to Congress, which might perhaps do nearly as well, and would be found <sup>be</sup> <sup>actory to</sup> satisfy [“y” stricken out] some members <sup>\*</sup> who disliked the Constitution. For himself he did not think a better plan was to be expected and had no scruples against putting his name to it.

Mr Hamilton expressed his anxiety that <sup>every member</sup> [“all” stricken out] should sign. A few characters of consequence, by opposing or even refusing to sign the Constitution, might do infinite mischief by kindling the latent sparks that lurk under an enthusiasm in favor of the Convention which may soon subside. No man’s ideas were more remote from the plan than his own were known to be; but [“is it” written upon “it is”, “not” stricken out] possible to deliberate between anarchy and Convulsion on one side, and the chance of good to be expected from the plan on the other.

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\* He [“probably” stricken out] alluded to Mr. Blount for one.

Mr Blount said he had declared that he would not sign, ["so" written upon "but"] as to pledge himself in support of the plan, but he was relieved by the form proposed and <sup>without committing himself</sup> would attest the fact that the plan was the unanimous act of the States in Convention.

Doc<sup>r</sup> Franklin expressed his fears from what Mr Randolph had said, that he thought himself alluded to in ["the" written upon "that"] remarks offered this morning to the House. He declared that when drawing up that paper he did not know that any particular member would refuse to sign his name to the instrument, and hoped to be so understood. He professed a high sense of obligation to Mr Randolph for having brought forward the plan in the ["first" stricken out] first instance, and for the assistance he had given in its progress, and hoped that he would yet lay aside his objections, and, by concurring with his brethren, prevent the great mischief which the refusal of his name might produce.

Mr Randolph could not but regard["ing" effaced] the signing in the proposed form, as the same with signing the Constitution. The change of form therefore could make no difference with <sup>him,</sup> He repeated that in refusing to sign the Constitution, he took a step which might be the most awful of his life, but it was dictated by his conscience, and it was not possible for him to hesitate, much less, to change. He repeated also his persuasion, that the holding out this plan with a final alternative ["of" effaced] to the people, of accepting or rejecting it in toto, would really produce the anarchy & civil convulsions which were apprehended from ["a refusal to sign" stricken out] the refusal of individuals to sign it.

Mr Gerry ["described" stricken out] <sup>described</sup> the painful feel-

ings of his situation, and the embarrassment under which he rose to offer any further observations ["of" stricken out]<sup>on</sup> the subject w<sup>ch</sup> had been finally decided. Whilst the plan was depending, he had treated it with all the freedom he thought it deserved— He now felt himself bound as he was disposed to treat it with the respect due to the Act of the Convention— He hoped he should not violate that respect in declaring ["t" effaced] on this occasion his fears that a Civil war may result from the present crisis of the U. S— In Massachusetts, particularly he saw the danger of this calamitous event— ["In that" written upon "This State"] State there are two parties, one devoted to Democracy, the worst he thought of all political evils, the other as violent in the opposite extreme. From the collision of these in opposing and resisting the [<sup>Constitution</sup> "system" stricken out], confusion was ["g" written upon "to"]<sup>^</sup>reatly to be feared. He had thought it necessary for this & other reasons that the plan should have been proposed in a more mediating shape, in order to [illegible word stricken out] abate the heat and opposition of parties— As it had been passed by the Convention, he was persuaded it would have a contrary effect— He could not therefore by signing the Constitution pledge himself to abide by it at all events. The proposed form made no difference with him. But if it were not otherwise apparent, the refusals to sign should never be known from him. Alluding to the remarks of Doc<sup>r</sup> Franklin, he could not but view them as levelled at himself and the other gentlemen who meant not to sign; ["giving at the same" stricken out]

Gen<sup>l</sup> Pinkney— We are not likely to gain ["much" stricken out]<sup>many converts</sup> by the ambiguity of the proposed form of

signing. He thought it best to be candid and let the form speak the substance— If the meaning of the signers be left in doubt, his purpose would not be answered— He should sign the Constitution with a view to support it with all his influence, and wished to pledge himself accordingly—

Doc<sup>r</sup> Franklin. It is too soon to pledge ourselves before Congress and our Constituents shall have approved the plan.

M<sup>r</sup> Ingersol did not consider the signing, either as a mere attestation of the fact, or as pledging the signers to support the Constitution at all events; but as a recommendation, of what, all things considered, [“as” effaced] was the most eligible.

On the motion of Doc<sup>r</sup> Franklin

N. H. ay. Mas. ay— C<sup>t</sup> ay— N. J. ay— P<sup>a</sup> ay— Del— ay. M<sup>d</sup> ay.  
<sup>N. C. ay</sup>  
 V<sup>a</sup> ay— S. C. div<sup>d</sup> Geo. ay. [\*Gen<sup>l</sup> Pinkney & M<sup>r</sup> Butler  
 disliked the equivocal for of the signing, and on that  
 account voted in the negative]

M<sup>r</sup> King suggested that the Journals of the Convention should be either destroyed, or deposited in the custody of the President. He thought if suffered to be made public, a bad use would be made of them by those who would wish to prevent the adoption of the Constitution—

M<sup>r</sup> Wilson preferred the second expedient. he had at [“one” written upon “first”] time liked the first best; but as false suggestions may be propagated it should not be made impossible to contradict them—

A question was then put on depositing the Journals and other papers of the Convention in the hands of the President, On which,

N— H— ay. M<sup>us</sup> ay. C<sup>t</sup> ay— N. J. ay. Pen<sup>a</sup> ay. Del. ay. M<sup>d</sup> <sup>stricken out</sup> <sup>[...]</sup> no.  
 V<sup>a</sup> ay. N. C. ay— S. C. ay. Geo. ay.

[“<sup>†</sup>” stricken out] this negative of Maryland was occasioned by the <sup>language of the</sup> instructions to the Deputies of that State, which required them to report to the State, the proceedings of the Convention.

[“The asked President having asked whether it was intended that the Journal and papers were to be kept from.” stricken out]

The President <sup>having</sup> asked [“was” stricken out] what the Convention meant should be done with the Journals &c, whether copies were to be [“given” stricken out] <sup>allowed</sup> to the members if applied for. It was Resolved nem: con: “that he retain the Journal and other papers, subject to the order of Congress, if ever formed under the Constitution.

<sup>last</sup> The members then proceeded to sign the instrument.

Whilst the members were signing it [“the Constitution” stricken out] Doct<sup>r</sup> Franklin looking <sup>towards</sup> [“at” stricken out] the Presidents Chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have [“said” written upon “often”] he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its [“issue” written upon “result”], looked at that behind the President without being able to <sup>tell</sup> [“judge” stricken out] whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun.

[“As soon as the signing of the” stricken out] The Constitution being signed by all the Members except M<sup>r</sup> Randolph, M<sup>r</sup> Mason, and M<sup>r</sup> Gerry who declined giving it the sanction of their names, the Convention

\* to be transferred hither

† transfer.



dissolved [<sup>itself</sup>“themselves” stricken out] by an Adjournment  
sine die ———

[“The” effaced]

<sup>MS</sup> The few alterations and corrections made in these debates which are not in my hand writing, were dictated by me and made in my presence by John C. Payne.

James Madison

[The instances of discrepancy in handwriting here suggested are unapparent in the original manuscript, and could not therefore be indicated in the foregoing pages.]

Copy of a paper Communicated to J. M. by Col. Hamilton, about the close of the Convention in Philad<sup>a</sup> 1787, which he said delineated the Constitution which he would have wished to be proposed by the Convention: He had stated the principles of it in the course of the deliberations. See

The people of the United States of America do ordain & establish this Constitution for the government of themselves and their posterity.

## Article I

§. 1. The Legislative power shall be vested in two distinct bodies of men, one to be called the Assembly, the other the Senate, subject to the negative hereinafter mentioned.

§ 2. The Executive power, with the qualifications hereinafter specified, shall be vested in a President of the United States.

§. 3. The supreme Judicial authority, except in the cases otherwise provided for in this Constitution, shall be vested in a Court to be called the Supreme Court, to consist of not less than six nor more than twelve Judges.

## Article II

§ 1. The Assembly shall consist of persons to be called representatives, who shall be chosen, except in the first

instance, by the free male citizens & inhabitants of the several States comprehended in the Union, all of whom of the age of twenty one years & upwards shall be entitled to an equal vote.

§ 2. But the first Assembly shall [“consist” stricken out] be chosen in the manner prescribed in the last article and shall consist of one hundred members of whom N. Hampshire shall have five, Massachussets thirteen, Rhode Island two, Connecticut seven, N. York nine, N. Jersey six, Pennsylvania twelve, Delaware two, Maryland eight, Virginia sixteen, N. Carolina eight, S. Carolina eight, Georgia 4.

§ 3. The Legislature shall provide for the future elections of Representatives, apportioning them in each State, from time to time, as nearly as may be to the number of persons described in the 4 § of the VII article, so as that the whole number of Representatives shall never be less than one hundred, nor more than            hundred. There shall be a Census taken for this purpose within three years after the first meeting of the Legislature, and within every successive period of ten years. The term for which Representatives shall be elected shall be determined by the Legislature but shall not exceed three years. There shall be a general election <sup>at least</sup> once in three years, and the time of service of all the members in each Assembly shall begin, (except in filling vacancies [“on” stricken out]) on the same day, and shall always end on the same day.

§ 4. Forty members shall make a House sufficient to proceed to business; but their number may be increased by the Legislature, yet so as never to exceed a majority of the whole number of Representatives.

§ 5. The Assembly shall choose its President and other

Officers, shall judge of the qualifications & elections of its own members, punish them for improper conduct in their capacity as Representatives not extending to life or limb; and shall exclusively possess the power of impeachment except in the case of the President of the United States; but no impeachment of a member of the Senate shall be by less than two thirds of the Representatives present.

§. 6. Representatives may vote by proxy; but no Representative shall be proxy for more than <sup>present</sup>  $\left\{ \begin{array}{l} \text{Quera?} \\ \text{[ X to provide for distant States]} \end{array} \right.$  one who is absent.\*

§ 7. Bills for raising revenue, and bills for appropriating monies for the support of fleets and armies, and for paying the salaries of the Officers of Government, shall originate in the Assembly; but may be altered and amended by the Senate—

§ 8. The acceptance of an office under the United States by a Representative shall vacate his seat in the Assembly.

### Article III

§ 1. The Senate shall consist of persons to be chosen, except in the first instance, by Electors elected for that purpose by the Citizens and inhabitants of the several States comprehended in the Union who shall have in their own right, or in the right of their wives, an estate in land for not less than life, or a term of years, whereof at the time of giving their votes there shall be at least fourteen years unexpired.

§ 2. But the first Senate shall be chosen in the manner prescribed in the last Article and shall consist of forty members to be called Senators, of whom N. Hampshire shall have      Mass<sup>ts</sup>      R. Island      Connecticut      N. York

N. Jersey	Pen <sup>a</sup>	Delaware	Maryl <sup>d</sup>	Virg <sup>a</sup>
N. Carol <sup>a</sup>	S. Carol.	Geo.		

§ 3. The Legislature shall provide for the future elections of Senators, for which purpose the States respectively, which have more than one Senator, shall be divided into convenient districts to which the Senators shall be apportioned. A State having but one Senator shall be itself a district. On the death, resignation or removal from office of a Senator his place shall be supplied by a new election in the district from which he came. Upon each election there shall be not less than six nor more than twelve electors chosen in a district

§ 4. The number of Senators shall never be less than forty, nor shall any State, if the same shall not hereafter be divided, ever have less than the number allotted to it in the second section of this article; but the Legislature may increase the whole number of Senators, in the same proportion to the whole number of Representatives as forty is to one hundred; and such increase beyond the present number, shall be apportioned to the respective States in a ratio to the respective numbers of their representatives.

§ 5. If States shall be divided, or if a new arrangement of the boundaries of two or more States shall take place, the Legislature shall apportion the number of Senators (in elections succeeding such division or new arrangement) to which the constituent parts were entitled according to the change of situation, having regard to the number of persons described in the 4. §. of the VII article.

§ 6. The Senators shall hold their places during good behaviour, removeable only by conviction on impeachment for some crime or misdemeanor. They shall continue to

exercise their offices when impeached untill a conviction shall take place. Sixteen Senators attending in person shall be sufficient to make a House to transact business, but the Legislature may increase this number, yet so<sup>as</sup> never to exceed a majority of the whole number of Senators. The Senators may vote by proxy, but no Senator who is present shall be proxy for more than two who are absent.

§. 7. The Senate shall choose its President and other Officers; shall judge of the qualifications and elections of its members, and shall punish them for improper conduct in their capacity of Senators; but such punishment shall not extend to life or limb; nor to expulsion. In the absence of their President they may choose a temporary President. The President shall only have a casting vote when the House is equally divided.

§. 8. The Senate shall exclusively possess the power of declaring war. No Treaty shall be made without their advice and consent; which shall also be necessary to the appointment of all officers, except such for which a different provision is made in this Constitution

#### Article IV

§ 1. The President of the United States of America, (except in the first instance) shall be elected in manner following—The Judges of the Supreme Court shall within sixty days after a vacancy shall happen, cause public notice to be given in each State, of such vacancy, appointing therein three several days for the several purposes following, to wit, a day for commencing the election of electors for the purposes hereinafter specified, to be called the first electors, which day shall not be less than forty, nor more than sixty days, after the

day of the publication of the notice in each State — — another day for the meeting of the electors not less than forty nor more than ninety days from the day for commencing their election — — another day for the meeting of electors to be chosen by the first electors, for the purpose hereinafter specified, and to be called the second Electors, which day shall be not less than forty nor more than sixty days after the meeting of the first electors.

§. 2. After notice of a vacancy shall have been given there shall be chosen in each State a number of persons, as the first electors in the preceding section mentioned, equal to the whole number of the Representatives and Senators of such State in the Legislature of the United States; which electors shall be chosen by the Citizens of such State having an estate of inheritance or for three lives in land, or a clear personal estate of the value of one thousand Spanish milled dollars of the present Standard.

§ 3. These first electors shall meet in their respective States at the time appointed, at one place; and shall proceed to vote by ballot for a President, who shall not be one of their own number, unless the Legislature upon experiment should hereafter direct otherwise. They shall cause two lists to be made of the name or names of the person or persons voted for, which they or the major part of them shall sign & certify. They shall then proceed each to nominate openly in the presence of the others, two persons as for second electors, and out of the persons who shall have the four highest numbers of Nominations, they shall afterwards by ballot by plurality of votes choose two who shall be <sup>the</sup> second electors, to each of whom shall be delivered one of the lists before mentioned. These second electors shall not be



any of the persons voted for as President. A copy of the same list signed and certified in like manner shall be transmitted by the first electors to the Seat of the Government of the United States, under a sealed cover directed to the President of the Assembly, which after the meeting of the second electors shall be opened for the inspection of the two House of the Legislature

§4. The second electors shall meet precisely on the day appointed and not on another day, at one place. The Chief Justice of the Supreme Court, or if there be no Chief Justice, the Judge senior in office in such Court, or if there be no one Judge senior in office, some other Judge of that Court, by the choice of the rest of the Judges or of a majority of them, shall attend at the same place and shall preside at the meeting, but shall have no vote. Two thirds of the whole number of the Electors shall constitute a sufficient meeting for the execution of their trust. At this meeting the lists delivered to the respective electors shall be produced and inspected, and if there be any person who has a majority of the whole number of votes given by the first electors, he shall be the President of the United States; but if there be no such person, the second electors so met shall proceed to vote, by ballot for one of the persons named in the lists who shall, have the three highest numbers of the votes of the first electors; and if upon the first or any succeeding ballot on the day of their meeting, either of those persons shall have a number of votes equal to a majority of the whole number of second electors chosen, he shall be the President. But if no such choice be made on the day appointed for the meeting either by reason of the non-attendance of the second electors, or their not agreeing, or

any other matter, the person having the greatest number of votes of the first electors shall be the President.

§ 5. If it should happen that the Chief-Justice or some other Judge of the Supreme Court should not attend in due time, the second electors shall proceed to the execution of their trust without him.

§ 6. If the Judges should neglect to cause the notice required by the first section of this article to be given within the time therein limited, they may nevertheless cause it to be afterwards given; but their neglect if wilful, is hereby declared to be an offence for which they may be impeached, and if convicted they shall be punished as in other cases of conviction on impeachment.

§ 7. The Legislature shall by permanent laws provide such further regulations as may be necessary for the more orderly election of the President, not contravening the provisions herein contained.

§ 8. The President before he shall enter upon the execution of his office shall take an oath or affirmation, faithfully to execute the same, and to the utmost of his Judgment & power to protect the rights of the people, and preserve the Constitution inviolate. This oath or affirmation shall be administered by the President of the Senate for the time being in the presence of both Houses of the Legislature.

§ 9. The Senate and the Assembly shall always convene in Session on the day appointed for the meeting of the second electors and shall continue sitting till the President take the oath or affirmation of office. He shall hold his place during good behavior, removeable only by conviction upon an impeachment for some crime or misdemeanor.

§ 10. The President at the beginning of every meeting of

the Legislature as soon as they shall be ready to proceed to business, shall convene them together at the place where the Senate shall sit, and shall communicate to them all such matters as may be necessary for their information, or as may require their consideration. He may by message during the Session communicate all other matters which may appear to him proper. He may, whenever in his opinion the public business shall require it, convene the Senate and Assembly, or either of them, and may prorogue them for a time not exceeding forty days at one prorogation; and if they should disagree about their adjournment, he may adjourn them to such time as he shall think proper. He shall have a right to negative all bills, Resolutions or acts of the two Houses of the Legislature about to be passed into laws. He shall take care that the laws be faithfully executed. He shall be the commander in chief of the army and Navy of the United States and of the Militia within the several States, and shall have the direction of war when commenced, but he shall not take the actual command in the field of an army without the consent of the Senate and Assembly. All treaties, conventions and agreements with foreign nations shall be made by him, by and with the advice and consent of the Senate. He shall have the appointment of the principal or Chief officer of each of the departments of War, naval Affairs, Finance, and Foreign Affairs; and shall have the nomination; and by and with the ["advice and" stricken out] Consent of the Senate, the appointment of all <sup>other</sup> officers to be appointed under the authority of the United States, except such for whom different provision is made by this Constitution; and provided that this shall not be construed to prevent the Legislature, from appointing by name, in their laws, persons to special &

particular trusts created in such laws, nor shall be construed to prevent principals in offices merely ministerial, from constituting deputies.—In the recess of the Senate he may fill vacancies in offices by appointments to continue in force until the end of the next Session of the Senate. And he shall commission all Officers. He shall have power to pardon all offences except treason, for which he may grant reprieves, untill the opening of the Senate & Assembly can be had; and with their concurrence may pardon the same.

§ 11. He shall receive a fixed compensation for his Services to be paid to him at stated times, and not to be increased nor diminished during his continuance in office—

§ 12. If he depart out of the United States without the Consent of the Senate and Assembly, he shall thereby abdicate his office—

§. 13. He may be impeached for any crime or misdemeanor by the two Houses of the Legislature, two thirds of each House concurring, and if convicted shall be removed from office. He may be afterwards tried & punished in the ordinary course of law— His impeachment shall operate as a suspension from office until the determination thereof.

§ 14. The President of the Senate shall be vice President of the United States. On the death, resignation, impeachment, removal from office, or absence from the United States, ["o" written upon "i"]f the President thereof, the Vice President shall exercise all the powers by this Constitution vested in the President, until another shall be appointed, or untill he shall return within the United States, if his absence was with the Consent of the Senate and Assembly.

## Article V

§ 1. There shall be a chief Justice of the supreme Court, who together with the other Judges thereof, shall hold their offices during good behaviour, removeable only by conviction on impeachment for some crime or misdemeanor— Each Judge shall have a competent Salary to be paid to him at stated times, and not to be diminished during his continuance in office.

The Supreme Court shall have original jurisdiction in all causes in which the United States shall be a party, in all controversies between the United States, and, a particular State, or between two or more States, except such as relate to a claim of territory between the United States, and one or more States, which shall be determined in the mode prescribed in the VI article; in all cases affecting foreign Ministers, Consuls and Agents; and an appellate jurisdiction both as to law and fact in all cases which shall concern the Citizens of foreign nations, in all questions between the Citizens of different States, and in all others in which the fundamental rights of this Constitution are involved, subject to such exceptions as are herein contained and to such regulations as the Legislature shall provide.

The Judges of all Courts which may be constituted by the Legislature shall also hold their places during good behaviour, removeable only by conviction on impeachment for some crime or misdemeanor, and shall have competent salaries to be paid at stated times and not to be diminished during their continuance in office; but nothing herein contained shall be construed to prevent the Legislature from abolishing such Courts themselves.

All crimes, except upon impeachment, shall be tried by a Jury of twelve men; and if they shall have been committed within any State, shall be tried within such State; and all civil causes arising under this Constitution of the like kind with those which have been heretofore triable by Jury in the respective States, shall in like manner be tried by jury; unless in special cases the Legislature shall think proper to make different provision, to which provision the concurrence of two thirds of both Houses shall be necessary.

§ Impeachments of the President and Vice President of the U-States, members of the Senate, the Governours and Presidents of the several States, the principal or chief Officers of the Departments enumerated in the 10 §. of the 4<sup>th</sup> Article, Ambassadors and other like public Ministers, the Judges of the Supreme Court, Generals and Admirals of the Navy shall be tried by a Court to consist of the Judges of the Supreme Court, and the Chief Justice or first senior Judge of the superior Court of law in each State, of whom twelve shall constitute a Court. A majority of the Judges present may convict. All other persons shall be tried on impeachment by a court to consist of the Judges of the supreme Court and six Senators drawn by lot, a majority <sup>of whom</sup> may convict.

Impeachments shall clearly specify the particular offence for which the party accused is to be tried, and judgment on conviction upon the trial thereof shall be either removal from office singly, or removal from office and disqualification for holding any future Office or place of trust; but no Judgment on impeachment shall prevent prosecution and punishment in the ordinary course of law; provided that no Judge concerned in such conviction shall sit as Judge on



the second trial. The Legislature may remove the disabilities <sup>incurred</sup> by conviction on impeachment.

#### Article VI

Controversies about the rights of territory between the United States and particular States shall be determined by a Court to be constituted in manner following. The State or States claiming in opposition to the United States as parties shall nominate a number of persons, equal to double the number of Judges of the Supreme Court for the time being, of whom none shall be citizens by birth of the States which are parties, nor inhabitants thereof when nominated, and of whom not more than two shall have their actual residence in one State. Out of the persons so nominated the Senate shall elect one half, who together with the Judges of the supreme Court, shall form the Court. Two thirds of the whole number may hear and determine the controversy, by plurality of voices. The States concerned may at their option claim a decision by the Supreme Court only. All the members of the Court hereby instituted, shall, prior to the hearing of the Cause take an oath impartially and according to the best of their judgments and consciences, to hear and determine the controversy.

#### Article VII.

§ 1. The Legislature of the United States shall have power to pass all laws which they shall judge necessary to the common defence and general welfare of the Union: But no Bill, Resolution, or act of the Senate and Assembly shall have the force of a law until it shall have received the Assent of the President, or of the vice-President when exercising the powers of the President; and if such assent

shall not have been given within ten days, after such bill, resolution or other act shall have been presented to him for that purpose, the same shall not be a law— No bill, resolution or other act not assented to shall be revived in the same Session of the Legislature. The mode of signifying <sup>such assent,</sup> shall be by signing the bill act of resolution, and returning it so signed to either House of the Legislature.

§ 2. The enacting stile of a laws shall be “Be it enacted by the People of the United States of America”.

§ 3. No bill of attainder shall be passed, nor any ex post facto law; nor shall any title of nobility be granted by the United States, or by either of them; nor shall any person holding an office or place of trust under the United States without the permission of the Legislature accept any present, emolument Office or title from a foreign prince or State. Nor shall <sup>any</sup> Religious Sect, or denomination, or religious test for any office or place, be ever established <sup>by</sup> law.

§ 4. Taxes on lands, houses and other real estate, and capitation taxes shall be proportioned in each State by the whole number of free persons, except Indians not taxed, and by three fifths of all other persons.

§. 5. The two Houses of the Legislature may by joint ballot appoint a Treasurer of the United States— Neither House in the Session of both Houses, without the consent of the other shall adjourn for more than three days at a time. The Senators and Representatives, in attending, going to and coming from the Session of their respective houses shall be privileged from arrest except for crimes and breaches of the peace. The place of meeting shall always be at the seat of Government which shall be fixed by law.

§ 6. The laws of the United States, and the treaties which have been made under the articles of the confederation, and

which shall be made under this Constitution shall be the supreme law of the Land, and shall be so construed by the Courts of the several States.

§ 7. The Legislature shall convene at least once in each year, which unless otherwise provided for by law, shall be the first Monday in December.

§ 8. The members of the two Houses of the Legislature shall receive a reasonable compensation for their services, to be paid out of the Treasury of the United States and ascertained by law. The law for making such provision shall be passed with the concurrence of the first Assembly and shall extend to succeeding Assemblies; and no succeeding Assembly shall concur in an alteration of such provision, so as to increase its own compensation; but there shall be always a law in existence for making such provision.

#### Article VIII

§ 1. The Governour or President of each State shall be appointed under the Authority of the United States, and shall have a right to negative all laws about to be passed in the State of which he shall be Governour or President, subject to such qualifications and regulations, as the Legislature of the United States shall prescribe— He shall in other respects have the same powers only which the Constitution of the State does or shall allow to its Governour or President, except as to appointment of Officers of the Militia.

§ 2. Each Governour or President of a State shall hold his office until a successor be actually appointed, unless he die, or resign or be removed from office by conviction on impeachment. There shall be no appointment of such Governor or President in the Recess of the Senate.

The Governours and Presidents of the several States at the

time of the ratification of this Constitution shall continue in office in the same manner and with the same powers as if they had been appointed pursuant to the first section of this article.

The officers of the Militia in the several States may be appointed under the authority of the U- States; the Legislature whereof may authorize the Governors or Presidents of States to make such appointments with such restrictions as they shall think proper.

#### Article IX

§. 1. No person shall be eligible to the office of President of the United States unless he be now a Citizen of one of the States, or hereafter be born a Citizen of the United States.

§. 2. No person shall be eligible as a Senator or Representative unless at the time of his election he be a Citizen and inhabitant of the State in which he is chosen; provided that he shall not be deemed to be disqualified by a temporary absence from the State.

§ 3. No person entitled by this Constitution to elect or to be elected President of the United States, or a Senator or Representative in the Legislature thereof, shall be disqualified but by the conviction of some offence for which the law shall have previously ordained the punishment of disqualification. But the Legislature may by law provide that persons holding offices under the United States or either of them shall not be eligible to a place in the Assembly or Senate, and shall be during their continuance in office suspended from sitting in the Senate.

§ 4. No person having an office or place of trust under the United States shall without permission of the Legislature

accept any present emolument Office or title from any foreign Prince or State.

§ 5. The citizens of each State shall be entitled to the rights privileges and immunities of citizens in every other State; and full faith and credit shall be given in each State to the public acts, records and judicial proceedings of another.

§ 6. Fugitives from justice from one State who shall be found in another shall be delivered up on the application of the State from which they fled.

§ 7. No new State shall be erected within the limits of another, or by the junction of two or more States, without the concurrent consent of the Legislatures of the United States and of the States concerned. The Legislature of the United States may admit new States into the Union—

§ 8. The United States are hereby declared to be bound to guarantee to each State a Republican form of Government, and to protect each State as well against domestic violence as foreign invasion.

§ 9. All Treaties, Contracts and engagements of the United States of America under the articles of Confederation and perpetual Union, shall have equal validity under this Constitution.

§ 10. No State shall enter into a Treaty, alliance, or contract with["out" stricken out] another, or with a foreign power without the consent of the United States

§ 11. The members of the Legislature of the United States and of each State, and all officers Executive & Judicial of the one and of the other shall take an oath or affirmation to support the Constitution of the United States—

§ 12. This Constitution may receive such alterations and

amendments as may be proposed by the Legislature of the United States, with the concurrence of two thirds of the members of both Houses, and ratified by the Legislatures of, or by Conventions of deputies chosen by the people in, two thirds of the States composing the Union.

#### ARTICLE X

This Constitution shall be submitted to the consideration of Conventions in the several States, the members whereof shall be chosen by the people of such States respectively under the direction of their respective Legislatures— Each Convention which shall ratify the same, shall appoint the first representatives and Senators from such State according to the rule prescribed in the § of the Article. The representatives so appointed shall continue in office for one year only. Each Convention so ratifying shall give notice thereof to the Congress of the United States, transmitting at the same time a list of the Representatives and Senators chosen. When the Constitution shall have been duly ratified, Congress shall give notice of a day and place for the meeting of the Senators and Representatives from the several States; and when these or a majority of them shall have assembled according to such notice, they shall by joint ballot, by plurality of votes, elect a President of the United States; and the Constitution thus organized shall be carried into effect.



[The following is the report of Pinckney's speech, in his own handwriting, referred to by Madison under date of June 25. See *supra*, pp. 199-207.]

### [Appendix]

Our <sup>true</sup> situation appears to me to be this. — a new, extensive country containing within itself, the materials of forming a government capable of extending to its citizens all the blessings of civil & religious liberty,—capable of making them happy at home.—this is the great end of republican establishments we mistake the object of our government, if we hope or [<sup>wish</sup> “wish expect” stricken out] that it is to make us respectable abroad.—conquest or superiority among other powers is not or ought not ever to be the object of republican <sup>systems</sup> [<sup>“establishments”</sup> stricken out].—if they are sufficiently active & energetic to rescue us from contempt & preserve our domestic happiness & [<sup>“tranq”</sup> stricken out] security, it is all we can expect from them.—it is more than almost any other government ensures to its citizens

I believe this observation will be found generally true.—that [<sup>“ti”</sup> stricken out] no two people are so exactly alike in their situation or circumstances as to <sup>exercise of the</sup> admit the same government with equal benefit.—that a system must be suited to the habits & genius of the people it is to govern & must grow out of them

The people of the U S may be divided into three classes.—Professional men who must from their particular pursuits always have a considerable weight in the government while it remains popular. — Commercial men, who may or may not have a weight as a wise or injudicious commercial policy is [<sup>“or is” effaced</sup> <sup>“not”</sup> effaced] pursued. — if that commercial policy is pursued which I conceive to be the true one, the merchants of this country will not or ought not for a considerable time to have much weight [<sup>“in the system”</sup> stricken out] in the political scale.

The third is the landed interest, the owners of & cultivators of the soil who are & ought ever to be the governing principle in the system———<sup>individually</sup>

these three classes however distinct in their pursuits are, equal in the political scale, & may be clearly proved to have but one interest.—The dependence of each on the other is mutuel?—the merchant depends on the planter—both must in private as well as public affairs be connected with the professional men—who in their turn must in some measure depend upon them.—hence it is that from this manifest connection & the equality which I before stated exists, & must for the reasons then assigned continue, that after all there is one but one great & equal body of citizens, composing the <sup>inhabitants</sup> [“citizens” stricken out] of this country among whom there are no distinctions of rank & very few of fortune

For [“this” stricken out] a people thus circumstanced, are we then to form a government & the question is, what kind of system is best suited to them

Will the British government.—no!—why? because Great Britain contains three orders of people distinct in their situation their passions & principles.—these orders combined form <sup>& accounts</sup> the great body of the nation | & as in national expenses <sup>& resources</sup> the wealth of the whole community must contribute so ought each component part to be properly & duly represented.—No other combination of power could form this due representation but the one that exists.—neither the peers or the people could represent the royalty, nor could the royalty & the people form a proper representation for the peers.—each therefore must of necessity be represented by itself or the sign of itself & this accidental mixture <sup>certainly</sup> has formed <sup>a</sup> [“the” stricken out] government admirably balanced

But the United States contain but one order that can be assimilated to the British nation — — this is the order of commons. — they will not surely then attempt to form a government [“which” stricken out] consisting of three branches two of which shall have nothing to represent . . . they will not have an Executive & Senate hostile because the King & Lords of England are so.—the same reason do not exist & therefore the same provisions [“are” written upon “do”] not necessary

We must as has been observed suit our government to the people it is to direct.— these are I believe as active, intelligent & susceptible of good govern-

ment as any people in the world.—the confusion which has produced the present relaxed state [“of” stricken out] is not owing to them.—it is owing to the weakness & impropriety of a government incapable of combining the various interests it is intended to unite & support & destitute of energy — —

The people of the U S are perhaps the most singular of any [“we” written upon “in”] are acquainted with.—among them there are fewer distinctions of fortune & less of rank; than among the inhabitants of any other nation.—every free-man [“is entitled” stricken out] <sup>has a right</sup> to the same protection & security and a very moderate share of [“possession” stricken out] property entitles them to the possession of all the honors & privileges [“of” stricken out] the public can bestow.—hence arises a greater equality, than is to be found among the people of any other country, and an equality which is more likely to continue.—I say this equality is likely to continue; because in a new country, possessing immense tracts of uncultivated lands—where every temptation is offered to [“the” stricken out] emigration & where industry must be rewarded with competency, there will be few[“er” stricken out] poor & few[“er” stricken out] dependent[“s” stricken out].—Every member of the society almost, will enjoy an equal power of arriving at the supreme offices & consequently of directing the strength & sentiments of the [“whole” stricken out] community.—[“few” stricken out] <sup>none</sup> will be excluded by birth, & few by fortune from a power of voting for proper persons to fill the offices of government—the whole community will enjoy in the fullest sense that kind of political Liberty which consists in the power which the members of the state reserve to themselves of arriving at the public offices, or at least of the having votes in the nomination of those who fill them — —

If this state of things is true & the prospect[“s” stricken out] of its continuing [“is” stricken out], probable, it is perhaps not politic to endeavour too close an imitation of a government calculated for a people whose political situation is, & whose views ought to be extremely different

Much has been said of the constitution of Great Britain.—I will confess That I believe it to be the best constitution in existence, but at the same time I am confident, it is [“a consti-<sup>one</sup>tuti” stricken out] that will not suit or cannot be introduced into this country for many centuries.—If it were proper to go here into a historical dissertation of the British constitution, it might easily be shewn that The peculiar excellence,

the distinguishing feature of that government cannot possibly be introduced into our system.—. —that it's balance between the crown & the people cannot be made a part of our constitution.—that we neither have, or can have the members to compose it.—the rights, privileges & properties of so distinct a class of citizens to guard.—that the materials for forming this balance or check do not exist, nor is there a necessity for having so permanent a part of our legislative until the Executive power is so constituted as to have something fixed & dangerous in it's principle.—by this I mean a sole, hereditary, tho' limited Executive ———

That ["it" stricken out] we cannot have a proper body for forming a legislative balance, between the inordinate power of the Executive or the people is evident from a review of the accidents & circumstances, which gave rise to the peerage of Great Britain.—I believe it is well ascertained that the parts which compose the British constitution arose immediately from the forests of Germany, but the antiquity of the establishment of nobility is by no means clearly defined.—Some authors are of opinion that the dignity denoted by the titles of dux et comes was derived from the old roman to the German Empire, while others are of opinion that they existed among the germans long before the romans were acquainted with them.—the institution however of nobility is immemorial among the nations who may properly be termed the Ancestors of Britain. . ——— At the time they were summoned in England to become a part of the national council & the circumstances which have contributed to make them a constituent part of that constitution, must be well known to <sup>all</sup> gentlemen who have either had industry or curiosity to investigate the subject.—the nobles with their possessions [?] & dependants [<sup>composed</sup> "formed" stricken out] a body permanent in <sup>respect of</sup> their nature & formidable in their powers.—they had a distinct interest either from the king or people—an interest which could only be represented by themselves, & the guardianship of which could not be safely intrusted to others.—at the time they were originally called to form a part of the national cou[<sup>s</sup> "s" stricken out]usel, necessity perhaps as much as any other cause induced the monarch to look up to them.—it was necessary to demand the aid of his subjects [<sup>in</sup> "with" stricken out] personal & pecuniary services,—the power & possessions [?] of the nobility would not permit taxation from any assembly of which they were not a part &



the blending the deputies of the commons with them, & thus forming, what they called their parler=ment was perhaps as much the Effect of accident as of any thing else.—the commons were at that time compleatly subordinate to the nobility whose consequence & influence seem to have been the only reason for [“calling” stricken out] them that superiority.—a superiority so degrading to the commons—that in the first summons, we find, the freemen called upon to consult the commons to consent —— from this time the peers have composed a part of the British legislature & notwithstanding their power & influence have [“degraded”<sup>deminished</sup> stricken out] & the commons increased yet still they have been found an excellent [“&” stricken out] balance against either the incroachments of the crown or the people, [“that” stricken out] . . . ———

I have said that such a body cannot exist in this country for ages & that until the situation of your people is exceedingly changed no necessity will exist for so permanent a part of the legislature.—to illustrate this [“point he to” stricken out] <sup>I have</sup> remarked that the [“sitnat” stricken out] people of the U S are more equal in their circumstances than the people of any other country.—that they have few very few rich men among them?——by rich men, I mean those whose <sup>riches</sup> [“influence” stricken out] may have a dangerous influence, or such as are esteemed rich in Europe.—perhaps there are not <sup>100 on</sup> [“a dozen” stricken out] the continent.—that it is not probable this number will be greatly increased.—.—that the genius of the people, their <sup>mediocre</sup> [“strong habits” stricken out] situation & the prospects which are afforded their industry <sup>in a country</sup> which, must be a new one for centuries are unfavorable to the rapid distinction of ranks.—[“that” stricken out] the distinction of the right of primogeniture & the equal division of property of intestates will also have an effect to preserve this mediocrity.—for laws <sup>On the other hand</sup> invariably affect the manners of a people.—[“when wh” stricken out] that vast extent of unpeopled territory which opens to the frugal [?] & industrious a sure road to competency & independence will effectually prevent for a considerable time [“too great numbers”<sup>that increase</sup> stricken out] <sup>the</sup> of poor or discontented & be the means of preserving that equality of condition which so eminently distinguishes us

If Equality is as I contend the leading feature of [<sup>the U S</sup>“our system” stricken out], where then are the riches & the wealth [<sup>whose</sup>“of the states” stricken out] representation & protection is the peculiar province of this permanent body.—are they in the hands of the few who may be called rich, in the possession of less than 100 citizens.—certainly not they are in the great body of the people among whom there are no men of wealth & very few of real property—is it <sup>of men</sup>probable, that a change will, be created, & that a new order will arise.—if under the British Government, for a century, no such [<sup>change</sup>“order” stricken out] <sup>may</sup>was probable, I think it [<sup>may</sup>“will” stricken out] be fairly concluded it will not take place while even the semblance of republicanism remains.—How Is this change to be effected.—Where are the sources from whence it is to <sup>unproductive &</sup>flow.—from the landed interest.—no—they are too equally divided in the majority of the States, [<sup>unproductive &</sup>“& too unproductive” stricken out].—from the monied interest if such exists at present, little is to apprehended.—are they to spring from Commerce— I believe it will be the first Nobility that ever <sup>apprehend</sup>sprung from merchants.—Besides Sir I [<sup>apprehend</sup>“believe” stricken out] upon this point the policy of the U States has been [<sup>so</sup>“so” stricken out] much mistaken, [<sup>illegible word</sup> stricken out] We have unwisely considered as the inhabitants of an old instead of a new country.—We have adopted the maxims of <sup>& manufactures</sup>a [<sup>popula</sup>“popula” stricken out] state full of people & established in credit.—[we have deserted [<sup>the</sup>“the” stricken out] our true interests & instead of applying closely to those improvements in domestic policy which would have insured the future importance of our commerce We have rashly & prematurely engaged in schemes as extensive as they are imprudent.— this however is an error which daily corrects itself & I have no doubt that a few more severe trials will convince us, that very different commercial principles ought to govern the conduct of these states

The people of this Country are not only very different from the inhabitants of any [<sup>State</sup>“country” stricken out] we are acquainted with in the modern world, but I assert that their political situation is distinct from either the people of [<sup>the</sup>“the” stricken out] Greece or Rome or of



any state we are acquainted with among the Antients.—can the orders introduced by the institution of Solon, can they be found in the U S.—can the military habits & manners of Sparta be assimilated to [“the same” stricken out] habits & manners.—are the distinctions of patrician & plebian known among us?—can the helvetic or belgic confederacies, or can the unwieldy, unmeaning body called the Germanic Empire can they be said to possess either the perfection or a situation like <sup>our</sup> ours.—I apprehend not— — they are perfectly [“distinct” stricken out] different, either in their distinctions of rank, their constitutions their manners & their policy

All that we have to do then is to distribute the powers of government in such manner & for such limited periods as [“will” stricken out] while it gives a proper degree of permanency to the magistrate will reserve to the people the right of election they will not or ought not frequently to part with—

I am of opinion that this may be easily done & that with some amendments the propositions before the committee will fully answer this end ———

No position appears to me more true than this that the general government cannot effectually exist without retaining <sup>the states</sup> in the possession of their local rights,—they are the instruments upon which the Union must frequently depend for the support & execution of their powers however immediately operating upon the people & not upon the states

Much has been said about the propriety of removing the distinction of state governments, & having but one general system, suffer me for a moment to examine this Question



### [Appendix.]

After this volume had gone to press the following additional notes by Madison for the introduction to his notes of debates in the Federal Convention were found detached and far out of place among the papers—a mis-placement due either to a careless arrangement, originally, of the scraps of paper involved, or to an error by the restorers and binders of the manuscript ]

But the radical infirmity of “the art of Confederation.” was the dependance of Cong<sup>s</sup> on the voluntary and simultaneous compliance with its Requisitions, by so many independent communities, each consulting more or less its particular interests & convenience and distrusting the compliance of the others. Whilst the paper emissions of Cong<sup>s</sup> continued to circulate they were employed as a sinew of war, like gold & silver. When that ceased to be the case, the fatal defect of the [“po” stricken out] political System was felt in its alarming force. The war was merely kept alive and brought to a successful conclusion by such <sup>foreign aids and</sup> temporary expedients as could be applied; a hope prevailing with many, and a wish with all, that a state of peace, and the sources of prosperity opened by it, would give to the Confederacy [“in” stricken out] in practice, the efficiency which had been inferred from its theory.

The close of the war however brought no-cure for the public embarrassments. The States relieved from the pressure of foreign danger, and flushed with the enjoyment of independent and sovereign power; [instead of a diminished disposition to

part with it,] persevered in omissions and in measures incompatible with their relations to the Federal Gov<sup>t</sup> and with those among themselves; [“[notwithstanding, the urgency of the national engagements, and the anarchy <sup>increasing and collisions</sup> which threatened the Union itself.]” stricken out]

Having served as a member of Cong<sup>s</sup> through the period between Mar. 1780 & the arrival of peace in 1783, I had <sup>intimately well” stricken out]</sup> become acquainted with the public <sup>distresses and</sup> [“perplexities and” stricken out] the causes of them. I had observed the successful—opposition to every attempt to procure a remedy by new grants of power to Cong<sup>s</sup>. I had found moreover that [“that” stricken out] <sup>of success</sup> despair hung over the compromising provision for the public necessities [“in the plan” stricken out] <sup>[“plan” stricken out]—of April 1783,</sup> [“in apl. 1783” stricken out] <sup>[“recommended by Cong.” stricken out]</sup> which had [“been so” stricken out] <sup>elaborately planned</sup> been so [“carefully elaborated” stricken out], and so impressively recommended to [“the adoption of” stricken out] the States.\* Sympathizing, under this [“a” stricken out] aspect of affairs, [“with” stricken out] in the alarm of the friends of free Gov<sup>t</sup> at the threatened danger of an abortive result to the great & perhaps last experiment in its favour, I [“felt” stricken out] <sup>could not be</sup> insensible to the obligation to co-operate as far as I could in averting the calamity. With this view I acceded to the desire of my fellow Citizens of the County that I should be one of its representatives in the Legislature, hoping that I might there best contribute to inculcate the critical posture to which [“the Country and” stricken out] the Revolutionary cause was reduced, and the merit of a leading agency of the State in bringing about  <sup>blessings</sup> a rescue of the Union and the cause of liberty a staked on it, from an impending catastrophe.

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\* See address of Congress.

It required but little time after taking my seat in the  
 however favorable [~~"a"~~ stricken out] the general <sup>disposition</sup> [~~"sense"~~ stricken out] of the State might be  
 towards  
 to the Confederacy  
 House of Delegates in May 1784. to discover that [~~"it re-~~  
 stricken out] the Legislature retained the aversion of its pred-  
 ecessors to transfers of power from the State to the Gov<sup>t</sup> of  
 the Union; notwithstanding the urgent demands of the  
 Federal Treasury; the glaring inadequacy of the authorized  
 mode of supplying it, the rapid growth of anarchy in the  
 Fed<sup>t</sup> System, and the animosity kindled among its members <sup>the States</sup>  
 by their conflicting regulations.

[~~"The failure however of the varied propositions in the~~  
 [~~"the"~~ stricken out] Legislature" stricken out]

The temper of the Legislature & the wayward course of its  
 proceedings may be gathered from the <sup>Journals</sup> of its Sessions  
 in the years 1784 & 1785.

The failure however of the varied propositions in the Leg-  
 islature, for enlarging the powers of Congress, the continued  
 failure of the efforts of Cong<sup>s</sup> to obtain <sup>fr. from them</sup> the means of provid-  
 ing for the debts of the Revolution; and [~~"for"~~ stricken out]  
 [illegible word stricken out] of countervailing the commercial  
 laws of G. B. a source of much irritation & ag<sup>t</sup> which the  
 separate efforts of the States were found worse than abortive;  
 these Considerations with the lights thrown on the whole  
 subject, by the free & full discussion it had undergone led to  
 an acquiescence in the Resol<sup>n</sup> <sup>general</sup> [~~"passe"~~ stricken out] passed.  
 on the 21. of Jan<sup>y</sup> 1786. which proposed & invited a meeting  
 of Deputies from all the States to "insert the Resol (see  
 Journal.) 1.

The resolution had been brought forward some weeks  
 before on the failure of a [~~"n important"~~ stricken out] pro-  
 posed grant of power to Congress to collect a revenue from

commerce, which had been abandoned by its friends in consequence of material alterations made in <sup>the grant</sup> ["it" stricken out] by a Committee of the whole. <sup>The Resolution introduced by</sup> Tho ["coming from" stricken out] M<sup>r</sup> Tyler an influencial member, who having never served in Congress, had more the ear of the House than those whose services there exposed them to an imputable bias, was so [<sup>little</sup> "un" stricken out] acceptable that it was not then persisted in. <sup>and</sup> Being now revived by him, on the last day of the Session, [<sup>^</sup> "an" stricken out] being the alternative of adjourning without any effort for the crisis in the affairs of <sup>the</sup> Union, it ["was" stricken out] obtained a general vote; less however with some of its friends from a confidence in the success of the experiment than from a hope that it might prove a step to a more comprehensive <sup>& adequate</sup> provision for the wants of the Confederacy

It ["had" stricken out] happened also that Commissioners who had ["before" with "been" superscribed] appointed by Virg<sup>a</sup> & Mary<sup>d</sup> to settle the jurisdiction on waters dividing the two <sup>States</sup> <sup>["2" stricken out]</sup> <sup>["1" stricken out]</sup> had. apart from their official reports, recommended a uniformity in the <sup>regulations</sup> ["laws" stricken out] of the 2 States on several subjects <sup>&</sup> <sup>on those having</sup> particularly [<sup>^</sup> "on in" stricken out] relation to foreign trade. It appeared at the same time that Mary<sup>d</sup> had [<sup>deemed</sup> "wanted" stricken out] a concurrence of her neighbors Pen<sup>a</sup>—& Delaware <sup>indispensable</sup> ["necessary" stricken out]; [<sup>["in such a" stricken out]</sup> <sup>in such a case, who</sup> "which" stricken out] <sup>for</sup> like reasons would require that of their neighbors. So apt and forceable an illustration of the necessity of a uniformity throughout <sup>all</sup> the <sup>States</sup> ["Union" stricken out], could not but favour the passage of a Resolution <sup>which proposed a Convention</sup> <sup>having that</sup> ["which had that" stricken out] <sup>for</sup> its object.

The <sup>^</sup>comissioners appointed by the Legisl: & who



E. Randolph

attended the Convention were the Attorney of the State,  
 S<sup>t</sup> Geo: Tucker & J. M. The designation of [illegible  
 word stricken out] <sup>the</sup> time & place for its meeting <sup>to be proposed,</sup> [“was”  
<sup>to be stricken out]</sup> and communicated to the States having

stricken out] been left to the Com<sup>rs</sup> they named for the time  
 early September  
 May 10. 1787 [“and for the” stricken out] and for the place  
 the City of Annapolis [“the residence” stricken out] resi-  
 dence of Cong<sup>s</sup> and large Commercial Cities as [“sources”  
 liable to suspicious  
 stricken out] of an extraneous influence.

[“In” stricken out] Altho the <sup>invited Meeting</sup> [“recomended” stricken  
 out] appeared to be generally favored, five States only assem-  
 bled; some failing to make appointments, and some of the  
 individuals appointed not hastening their attendance, the  
 result in both cases being ascribed mainly, to a belief that  
 the time had not arrived for such a political reform, as might  
 be expected from a further experience of its necessity.  
 [“Maryland had assigned for her omission to appoint Com<sup>ers</sup>”  
 stricken out]

But in the interval between the proposal of <sup>the Convention</sup> [“<sup>the</sup> Virg<sup>a</sup>”  
 stricken out] and time [“for the” stricken out] of its meet-  
 ing, <sup>and” stricken out]</sup> such had been the advance of public opinion in the  
 stimulated as it had been by  
 desired direction, [“and such” stricken out] the effect of the  
 contemplated  
 [“promulgated” stricken out] object, [“if” stricken out] of  
 the meeting, in turning the-genal attention to the Critical  
 State of things, and in calling forth the [“sentiments opin-  
 sentiments  
 ions” stricken out] and exertions of the most [“reflecting  
 & influencial  
 and” stricken out] enlightened patriots, that the Con-  
 vention thin as it was did not scruple to decline the <sup>limited</sup> task  
 assigned  
 [“& marked out by the Credentials of its members”  
 to it]

stricken out], and to recommend to the States a Con-

nor ["It" stricken out] was [<sup>it</sup> "also, not" stricken out] unnoticed that the commission of the N. Jersey Deputation, [{"illegible words"} for the deliberation of the Union <sup>had extended</sup> object of its extension of "stricken out] its object to a general provision for the exigencies of the Union. vention with powers adequate to the occasion. ["The ["An act enlarged" stricken out] A recommendation for this enlarged act, for this" stricken out] purpose was accordingly ["agreed on unanimously, as re-" stricken out] reported by a Com<sup>t</sup> to ["which" with "whom" superscribed] the subject was referred. <sup>had been</sup> It was drafted by Col: H. and finally agreed to unanimously <sup>["in its form" stricken out]</sup> in the following form.

<sup>insert it</sup> The recommendation was well rec<sup>d</sup> by the Legislature of Virg<sup>a</sup> which happened to be the first that acted on it, and <sup>["in" stricken out]</sup> ["as the preparation of the bill fell on me, it was my study to make" stricken out] the example <sup>of her compliance was made as possible.</sup> ["as" stricken out] conciliatory and impressive as ["I could" stricken out] The Legislatures were ["apparently" stricken out] unanimous <sup>or</sup> ["on" stricken out] very nearly so on the occasion, and as a proof of the magnitude & solemnity attached to it, they placed Gen<sup>l</sup> W. at the head of the Deputation ["to of" stricken out] from the State; and as a proof of the deep interest he felt in <sup>the case</sup> ["it" stricken out] he overstepped [illegible words <sup>the</sup> stricken out] obstacles to his acceptance of the <sup>appointment</sup> trust.

<sup>law</sup> The bill complying with that from Annapolis was in the <sup>act</sup> terms following. "

A resort to a <sup>General</sup> Convention to remodel the Confederacy, was not a new idea. It had entered at an early date into the <sup>and ["probably" stricken out] speculations</sup> conversations <sup>I</sup> of the most reflecting & foreseeing observers of the inadequacy of the powers allowed to Congress. In a pamphlet published in May-81 ["by" stricken out] at the Seat of Cong<sup>s</sup> [illegible word stricken out] Peletiah Web-

ster [<sup>an able</sup> "an able" stricken out] tho' not conspicuous Citizen, after discussing the fiscal system of the U. States, and [<sup>suggesting</sup> "presenting" stricken out] among other remedial provisions including a national Bank ["of a described structure and uses, he" stricken out] remarks that "The Authority of Cong<sup>s</sup> at present is very inadequate to the performance of their duties; and this indicates the necessity of their calling a Continental Convention for the express purpose of ascertaining, defining, enlarging, and limiting, the duties & powers of their Constitution."

On the 1. day of Ap<sup>l</sup> 1783, Col. Hamilton, in a debate in Cong<sup>s</sup> observed that

He alluded probably to [see Life of Schuyler in Longacre

It does not appear however that his expectation had been fulfilled

In a letter <sup>to J. M.</sup> from R. H. Lee then President of Cong<sup>s</sup> dated <sup>Novr. 1784</sup> ["on" stricken out] 1784

He says

The answer of J. M. remarks

In 1785, Noah Webster whose pol. & other <sup>valuable</sup> writings had made him known to the public, in his <sup>one of</sup> ["sketches" <sup>publications</sup> stricken out] brought into view the same resort ["as" stricken out] for supplying the defects of the Fed<sup>l</sup> System. [see his life in Longacre]

The [<sup>proposed & expected</sup> "ex approaching" stricken out] Convention at <sup>The first of a general character that appears to have been realized & the state of the public mind awakened by it</sup> Annapolis had attracted the particular ["of Cong<sup>s</sup> stricken out] attention of Cong<sup>s</sup> and [<sup>avored the idea there</sup> "received the question" stricken out] of a ["General" stricken out] Convention [<sup>with fuller powers for amending the Confederacy</sup> "for a comprehensive amendment of the Articles of Confed<sup>n</sup>" [see letter

of Monroe & Grayson to J. M<sup>r</sup> and the letter of Jay to Gen<sup>l</sup> W.] " stricken out] letters of Monroe of & Grayson ["with powers beyond those of the Convention at Annapolis" stricken out].

It does not appear that in any of these cases, the reformed system was to be otherwise sanctioned than by the Legislative auth<sup>y</sup> of the States; nor ["was" stricken out] whether or how far a change was to be made in the structure ["or" stricken out] of the Depository of Federal powers.

The act of Virg<sup>a</sup> providing for [<sup>the</sup> "a" stricken out] Convention at Philad<sup>a</sup>, was succeeded by appointments from other States as their Legislatures were assembled, the appointments being selections from the most experienced & <sup>highest</sup> highstanding Citizens. Rh. I. was the only exception to a compliance with the recommendation from Annapolis, well known to have been swayed by an obdurate adherence to an advantage which her position gave her of taxing her neighbors thro<sup>t</sup> their consumption of imported supplies, an advantage which it was foreseen would be taken from her by a revisal of the "Articles of Confederation

As the pub. mind had been ripened for a salutary Reform of the pol. System, in the interval between the proposal & the meeting, of Com<sup>ts</sup> [illegible word stricken out] at Annapolis, the interval between the last event, and the meeting of Dep<sup>s</sup> at Phil<sup>a</sup> had continued to develop more & more the necessity & extent of a Systematic provision for the preservation and Gov<sup>t</sup> of the Union; among the ripening incidents was the Insurrection in Mass<sup>ts</sup> <sup>of Shays</sup> against her Gov<sup>t</sup>; which was with difficulty suppressed, <sup>influence ["of" with "on" superscribed]</sup> notwithstanding the apprehended <sup>the insurgents of an</sup> interposition of the ["of the" stricken out] Fed<sup>l</sup> troops.

At the date of the Convention, the aspect & retrospect of the pol: condition of the U. S. could not but fill the pub. mind with a gloom which was relieved only by a hope that so select a Body would devise an adequate remedy [“ [for the defects the deformities and <sup>the</sup> diseases which experience had disclosed]” stricken out] for the existing and prospective evils so impressively demanding it

It was seen that the public debt rendered so sacred by the cause in which it had been incurred remained without any provision for its payment. The reiterated and elaborate efforts of Cong. to procure <sup>from the States a more adequate power to raise the means</sup> [“the means had failed.” stricken out] <sup>of payment had failed.</sup> The effect of the ordinary requisitions <sup>of Congress had only displayed</sup> [“had proved” stricken out] the inefficiency of the auth<sup>y</sup> making them; none of the States having duly complied <sup>with them, some</sup> [“some of them” stricken out] having failed altogether or nearly so; and in one instance, that of N. Jersey, a compliance was expressly refused; nor was more yielded to the expostulations of members of Cong<sup>s</sup> deputed <sup>to her Legislature</sup> [“to make them” stricken out], than a mere repeal of the law, without a compliance. [see letter of Grayson to J. M.\*]

The want of auth<sup>y</sup> in Cong<sup>s</sup> to regulate Commerce had produced in Foreign nations <sup>particularly G. B.</sup> a monopolizing policy injurious to the trade of the U. S. and destructive to their navigation; the imbecilicity and anticipated dissolution of <sup>the</sup> Confederacy extinguish<sup>d</sup> all apprehensions of a Countervailing policy [“of” stricken out] <sup>on</sup> the part of the <sup>U. States</sup> [“U. S.” stricken out]

The same want of a general power over Commerce [“was found to produce” stricken out] <sup>led to</sup> an exercise of this <sup>power</sup> separately, by the States, w<sup>ch</sup> not only proved abortive, but engendered rival, conflicting and [“ag” stricken out] angry

regulations. Besides the vain attempts to supply their <sup>[illegible word stricken out]</sup> respective treasuries by imposts, which turned their commerce into the ["ports" stricken out] of the neighbouring ports, and ["even" stricken out] to co-erce a relaxation of the British monopoly ["of" stricken out] of the W. Ind<sup>n</sup> navigation, which was attempted by Virg<sup>a</sup> [see the Journal of ] the States having ports for foreign commerce, taxed & irritated the States, trading thro' them, as N. Y. Pen<sup>a</sup> Virg<sup>a</sup> & S-Carolina. Some of the States, as Connecticut, taxed imports <sup>as</sup> from Mass<sup>ts</sup> higher than imports ["fr" stricken out] even from G. B. of w<sup>ch</sup> Mass<sup>ts</sup> complained to Virg<sup>a</sup> and doubtless to other States [see letter of J. M. In [illegible words stricken out] N. Y. ["P<sup>t</sup>" stricken out] N. J. P<sup>a</sup> & Mary<sup>d</sup> [see] the navigation laws treated the Citizens other States as aliens.

In certain cases the auth<sup>y</sup> of the Confederacy was ["violated" stricken out] disregarded, <sup>as</sup> in violations not only of the Treaty of peace; but of Treaties with France & Holland, which were complained of to Cong<sup>s</sup>

In other cases the Fed<sup>l</sup> auth<sup>y</sup> was violated by Treaties & wars with Indians, as by Geo: by troops, <sup>raised & kept up</sup> with<sup>t</sup> the consent of Cong<sup>s</sup> as by Mass<sup>ts</sup> by compacts between Pen<sup>a</sup> and N. Jersey. and between Virg<sup>a</sup> & Mary<sup>d</sup>. From the Legis: Journals of Virg<sup>a</sup> it appears, that a <sup>vote</sup> ["refusal" with "refusing" superscribed] to apply for a sanction of Cong<sup>s</sup> was followed by a vote ["refusin" stricken out] ag<sup>st</sup> a communication of the Compact to Cong<sup>s</sup>

["Violation of" stricken out] In the internal administration of the States a violations of Contracts had become familiar in the form of depreciated paper made a legal tender,



["to" stricken out] of property substituted for money, of Instalment laws, and of [illegible word stricken out] the occlusions of ["interference with the Courts; and" stricken out] the Courts of Justice; ["it being"<sup>although</sup> stricken out] evident that all such interferences affected the rights of other States, relatively Creditor, as well as ["Citizens"<sup>Citizens</sup> stricken out] Creditors within the State

Among the defects which had been severely felt ["and of a uniformity in cases requiring it, as laws of naturalization, bankruptcy, foreseen" stricken out], was that ["of" stricken out] a Coercive ["sanction to the a Fed<sup>l</sup> acts; of a gua"<sup>gua</sup> stricken out] -ranty of the internal tranquility of the States; ["and especially a ratification of the Fed<sup>l</sup> Gov<sup>t</sup> by the people, instead of the Gov<sup>ts</sup> of the States" stricken out]

As ["a" stricken out] natural consequences of these distracted and disheartening appearances, ["the Fed<sup>l</sup> auth<sup>y</sup> had lost" stricken out] The Fed<sup>l</sup> auth<sup>y</sup> had ceased to be respected abroad, and dispositions shewn there, particularly in G. B, to take advantage of its imbecility, and to speculate on its approaching downfall; at home ["it had lost"<sup>it had lost</sup> stricken out] all confidence & credit ["had expired or was expiring" stricken out]. The ["th" stricken out] unstable and unjust ["policy"<sup>career</sup> stricken out] of the States had forfeited the respect & confidence essential to order and good Gov<sup>t</sup>, ["and in" stricken out] involv<sup>ving</sup> ["ing" stricken out] a general decay of confidence & credit between man & man. It was found moreover, that those least partial to popular Gov<sup>t</sup>,<sup>or most distrustful of its efficacy</sup> were yielding to ["in" stricken out] anticipations, that from an increase of the confusion a Gov<sup>t</sup> might ["be" stricken out] result more congenial with their taste or their opinions; whilst those most devoted to the principles and

forms of Republics. were alarmed ["lest" stricken out] for the cause of liberty itself, at stake in the ["A" stricken out] American Experiment, and anxious for a System that w<sup>d</sup> avoid the inefficacy of a mere Confederacy without passing into the opposite extreme of a Consolida-<sup>tion" stricken out</sup>tion of the States into a single Community; with the organized powers of a single Gov<sup>t</sup> ["and" stricken out] single Gov<sup>t</sup> ["all" stricken out] stricken out]. It was known that there were individuals who had betrayed a bias towards Monarchy, and there <sup>had always been</sup> ["were" stricken out] some not unfavorable to a partition of the Union into several Confederacies; either from a better chance of figuring on a Sectional Theatre., or that the Sections would require stronger Gov<sup>ts</sup> or by their hostile conflicts lead to a monarchical consolidation. The idea of dismemberment had ["been" stricken out] recently made its appearance in the Newspapers. ["[see letter of J M to Mr Jefferson." stricken out] ["&" stricken out]

Such were the defects, the deformities the diseases and the ominous prospects, for which the Convention were to provide a remedy, and which ought never to be overlooked in expounding & appreciating the Constitutional Charter the remedy that was provided.

As a sketch on paper, the earliest perhaps <sup>1</sup> ["w<sup>ch</sup> proposed a" stricken out] <sup>2</sup>Gov<sup>t</sup> <sup>of a Constitutional</sup> for the Union [organized into the regular Departments with ["a" stricken out] physical ["force" stricken out] means operating on individuals] to be ["actu" stricken out] sanctioned by the people ["not" stricken out] of the States, acting in their original & sovereign character, was contained in a letter from J. M. to Gov<sup>r</sup> Randolph, a copy of the letter is ["ins" stricken out] here inserted.

The feature in the letter which <sup>vested in the general</sup> ["gave a negative" stricken

out] Authy a negative on the laws of the States, was suggested by the negative in the head of the British Empire, which prevented collisions ["with" stricken out] between the parts & the whole, and between the parts themselves. It was supposed that the substitution, of an elective and responsible authority for an hereditary and irresponsible one, would avoid the appearance even of a departure from the principle of Republicanism. But altho' <sup>the subject</sup> was so viewed in the Convention, and <sup>the votes on it</sup> ["in the Convention came" stricken out] <sup>were</sup> more than once equilly divided, it was finally & justly <sup>abandoned</sup> ["[deemed an impractical arrangement, in a country so extended with so many Legislatures enacting each so many laws. Within the limits of a single State <sup>such an arrangement might be a valuable check</sup> ["a Check" stricken out] on the By laws of Corporations <sup>in</sup> ["might be which are not" stricken out] sufficiently controuled by the General law, w<sup>ch</sup> may sometimes evaded, sometimes violated by acts injurious to the public or individuals <sup>carried into execution before</sup> ["be" stricken out] legal redress be attainable. It does not seem to have been duly considered that By laws, in places <sup>Market</sup> ["to" stricken out] or thro' <sup>at</sup> citizens <sup>which</sup> ["other than" stricken out] at large have business to <sup>perform</sup> ["carry on" stricken out], may be materially inconvenient ["ly" erased] and oppressive.]" stricken out] for this erasure substitute the [illegible character stricken out] amend<sup>d</sup> marked\* for <sup>this page</sup> ["p. 1." stricken out]

On the arrival of the Virginia Deputies at Philad<sup>a</sup> it occurred to them that from the early and prominent part taken by that State in bringing about the Convention some initiative step might be expected from them. The Resolutions introduced by <sup>Governor</sup> ["M<sup>r</sup>" stricken out] Randolph were the result of a Consultation on the subject; with an understanding

that [<sup>they</sup> "it left" stricken out] left all the Deputies entirely open to the lights of discussion, and free to concur in any alterations or modifications which their reflections and judgments might approve. The Resolutions as the Journals shew became the basis on which the proceedings of the Convention commenced, and [<sup>to</sup> "from" stricken out] the developments, variations and modifications of which the plan of Gov<sup>t</sup> proposed by the Convention [<sup>was was</sup> "was was" stricken out] may be traced.

The curiosity I had felt during my researches into the History of the most distinguished Confederacies, particularly those of antiquity, and the deficiency I found in the means of satisfying it [<sup>illegible word stricken out</sup> "in the means &" stricken out] <sup>more especially in</sup> what related to the process, the principles—the reasons, & the antipations,<sup>ci</sup> which [<sup>process</sup> "process" stricken out] prevailed in the formation of them, determined me to preserve as far as I could an exact account of what might pass in the Convention whilst executing its trust, with the magnitude of which I was [<sup>duly</sup> "deeply im" stricken out] impressed, as I was with the gratification promised to future curiosity by an authentic [<sup>exhibition</sup> "disclosure" stricken out] of the objects, the opinions & the reasonings from which the new System of Gov<sup>t</sup> [<sup>was to receive</sup> "had rec." stricken out] its peculiar structure & organization. Nor was I unaware of the value of such a [<sup>illegible word stricken out</sup> contribution [<sup>to the fund of</sup> "would add to the external" stricken out] materials for the History of a [<sup>"H"</sup> "H" with "Con" superscribed" stricken out] Constitution on which [<sup>would be</sup> "could" stricken out] [<sup>illegible word stricken out</sup>] staked the happiness of a young people great even in its infancy, and perhaps the cause of Liberty [<sup>possibly</sup> "itself" stricken out] through the world.

In pursuance of the task I had assumed I chose a seat in front of the presiding member, <sup>with</sup> the other members, on my right & left hand. [<sup>In this favorable position for</sup> "With the advantage of" stricken out] hearing all that passed, I noted in terms legible & in <sup>& marks</sup> abbreviations intelligible to myself what was read from the Chair or spoken by the members; and losing not a moment unnecessarily between the adjournment & reassembling of the Convention I was enabled to write out ["during the intervals" stricken out] my daily notes ["in the extent & form &" stricken out] [see page 18. during the session or within a few finishing days after its close—see pa. 18.





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